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ABSTRACT

This teacher's guide provides 10 interactive lesson plans to educate youth about the consequences of violence. The lessons explore the different kinds of violence in society, conflict resolution through mediation, the behaviors that constitute sexual harassment, statistics on violence, ways to avoid domestic violence and the use of deadly force, the impact of television violence, sentencing enhancement statutes for gang activity, non-violent theories of social change, the problems facing minorities in Germany, and foreign policy alternatives to ethnic violence, civil wars, and genocide. The teaching strategies challenge students to solve problems peaceably through mediation and creative thinking. Beginning with the premises that respect is an unalienable right and that disrespect has no place in a democracy, the first priority of this curriculum is to foster respect for the inherent worth of all human beings. Once respect is established, the second step to avoiding violence is to reflect, to have the courage to think and to act clearly. Resolution, the third step, implies choosing an alternative that will allow everyone to walk away from a conflict with their worth as an individual intact. The book provides handouts to supplement mediation exercises, suggestions for resource persons, and guidelines for implementing a mediation program. (JD)

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Reflect
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Ten Anti-Violence Lessons for use in Middle and High School

SO 024 348

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Phi Alpha Delta Public Service Center

Respect, Reflect, Resolve

Anti-Violence Lessons for use in Middle and High School

with guidelines for setting up a
School Based Mediation Program

Phi Alpha Delta Public Service Center
1511 K Street, NW, Suite 611
Washington, DC 20005
(202) 638-2898

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First Edition

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Respect, Reflect, Resolve

INTRODUCTION

The following lessons contain information about conflict and violence and ways to avoid violence. We begin with the premise that one of the unalienable rights to which we are all entitled is the right to be respected. We are all born with a measure of worth and our worth should be recognized by ourselves and others. Disrespect of others has no place in a democracy that depends upon all people getting along.

The first step in avoiding violence is to recognize and ***Respect*** the inherent worth of all human beings. If we ***Respect*** ourselves, one another, and believe in the worth of each individual, we will know that each person should be accorded the benefit of the doubt and that the first response to some real or perceived insult or injury is not revenge or violence. If we begin with self ***Respect*** and ***Respect*** for everyone then violence is not an alternative because the goal of violence is to defeat, humiliate, injure, or destroy another human being. We cannot possibly do these things to people we ***Respect***.

The second step to avoiding violence is to ***Reflect***, to have the courage to think and to act clearly, with self control and without violence in word or deed. Reflection involves taking the time to evaluate a situation, gain an understanding of exactly what is happening and determine the possible peaceful solutions to the situation.

The third step to avoiding violence is to ***Resolve*** the conflict peacefully by choosing an alternative that will allow everyone involved to walk away with their worth as an individual intact. One of the best ways to ***Resolve*** conflict peaceably is through mediation. Mediation involves arriving at an agreement between two or more people or between two or more parties through the involvement and guidance of another person or party called a mediator.

This three step process: ***Respect, Reflect, Resolve***, can be utilized in a variety of conflict situations whether the conflict arises at home, school, play, or work, and whether the conflict is between or among family members, friends, co-workers, nations or minority groups. ***Respect, Reflect, Resolve*** contains lessons that teach mediation and alternative dispute resolution and provide students with opportunities to practice those conflict resolution skills on family, school, interest group, and international conflicts.

Also included are practical steps to setting up a school based peer mediation program to assist you in implementing our *Three "R" System* on a school-wide basis.

PAD PSC specializes in setting up teacher-lawyer partnerships and offers training in setting up school-based mediation programs. Please call for more information about our materials and how we can assist with your training needs.

ACKNOWLEDGEMENTS

Respect, Reflect, Resolve was principally authored by Phi Alpha Delta Public Service Center's Managing Director, **Jack C. Hanna**, and Assistant Director, **Gracemarie Maddalena**. We were provided excellent administrative support by **Febbie Piersol**. We received tremendous assistance from a number of individuals and organizations who are thanked in the individual lessons upon which they worked.

A special thanks is extended to two school based mediation program administrators and an attorney mediator who provided technical information about how mediation programs operate. We drew liberally from conversations with and materials supplied by **Dr. Hortense Harrison** of Kansas City, Missouri, **Kevin Homér**, J.D. of Idaho Falls, Idaho and **Dr. Anthony Moriarty** of Olympia Fields, Illinois in our guidelines for establishing a school based mediation program.

We extend heartfelt appreciation to the hundreds of teachers, attorneys and law students who were trained in the draft of the materials and provided critical reviews.

Respect, Reflect, Resolve is a teaching tool only and is not meant as legal advice. Should you need legal advice, please consult an attorney in your home state.

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INTRODUCTORY LESSON

I. LESSON DESCRIPTION

Students will brainstorm a list of conflict situations and peaceful resolutions of those conflicts. Students will become familiar with the *Three "R" System.*

II. OBJECTIVES

1. Students will understand the meaning of ***Respect***, ***Reflect***, and ***Resolve***.

2. Students will understand the limitations of conflict.

III. STEPS

Respect

1. Write the word ***Respect*** on the Board. Ask students to define the word. Give students the following definition if they do not provide a better one: ***Respect*** is recognizing the inherent worth of all human beings including one's self and being willing to accord that worth some kind of deference.

2. Ask students to list examples of situations where ***Respect*** is accorded to another human being or to one's self. Examples might be: saying hello, holding a door, being clean, not smoking, saying thank you, giving people room to walk, being self constructive and saying things about people that are put ups; not put downs.

3. Ask students to list examples of situations where ***Respect*** is not given to another human being or to one's self. Examples might be refusing to speak, bumping into people on purpose, breaking in line, being self destructive, and saying things to or about people that are put downs.

Reflect

4. Write the word ***Reflect*** on the board. Ask students to define the term and give examples of reflection. Inform students that in this context ***Reflect*** means having the courage to think and act clearly, with self control and careful consideration.

5. Ask students to list what negative consequences might occur as a result of conflicts over one person not giving another the ***Respect*** to which everyone is entitled. List these possibilities on the board. Cover the following points:
   a. Conflict leads to the fight or flight syndrome. I only have two alternatives.

b. Conflict leads to defense of a position without reflection, win/lose only.
c. Conflict leads to a feeling that an immediate reaction is required, no time to ***Reflect***.
d. Win/lose solutions only postpone the conflict . It is suppressed but will re-surface later and probably be escalated.

6. Ask students to ***Reflect*** upon each negative situation listed and develop a series of steps each participant in the situation could take to avoid such negative encounters in the future.

Resolve

7. Write the word ***Resolve*** on the board. Ask students to define ***Resolve***. Inform them that for the purpose of this series of lessons ***Resolve*** means to deliberately decide upon a particular course of action that will settle a dispute peacefully. Inform students that resolving conflicts is an opportunity to have ownership of positive solutions. It is an exercise in learning, growing, improving one's ability to work with others and practicing cooperative learning.

8. Refer to Step 6 above. Ask students to discuss the likely results of each of the steps listed on the board to ***Resolve*** the conflict. Discuss with students the most promising steps they have listed. Ask students to imagine that they themselves are a participant in one of the conflicts identified.

9. Ask students if they would be willing to abide by an agreement to solve the problems listed with the most promising and non-violent alternative listed. Discuss.

As you proceed through the ten lessons that follow, the Three "R" System will be repeatedly referred to in various contexts. We believe it forms the basis of an understanding of how to avoid violence.

LESSON ONE

STOP THE VIOLENCE!

STOP THE VIOLENCE!!!

I. LESSON DESCRIPTION

Students will explore the different kinds of violence that occur in our society. They will try non-violence as an active means to ***Resolve*** hypothetical conflicts. The lesson begins the process of ***Respect, Reflect, Resolve*** by identifying the differences between violence and non-violence.[1]

II. OBJECTIVES

1. Students will increase their understanding and awareness of the sources and forms of violence.

2. Students will practice creating non-violent alternatives to hypothetical conflict situations.

III. KEY CONCEPTS & VOCABULARY

assault	institutional violence	structural violence
battery	non-violence	violence
homicide	rape	violent crime

IV. STEPS

1. Distribute HANDOUT #1 to students. Have someone read it aloud while everyone follows along. Discuss. Have students bring in magazine and newspaper articles about violence to discuss.

2. Ask students to define violence. Write the following definitions of violence on the board and discuss them:

   Violence is any activity that prevents someone from developing his/her full potential as a human being. There are several kinds of violence including physical, emotional/psychological and institutional/structural.

   National Academy of Sciences defines violence as: Behaviors by individuals that intentionally threaten, attempt to or inflict physical harm on others.

   American Psychological Association defines violence as:

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[1]Thank you to Janyne Oberdorfer and Marsha Blakeway of Children's Creative Response to Conflict; Capital Area, Inc. of Arlington, Virginia for creating this lesson. For more information about their conflict resolution and anti-violence programs, contact their main office at CCFC/FOR, P.O. Box 27, 523 North Broadway, Nyack, NY 10960. Phone: (914) 358-4601.

Immediate or chronic situations that result in injury to the psychological, social or physical well-being of individuals or groups.

FBI defines violent crimes to include: Murder, non-negligent manslaughter, forcible rape, robbery, and aggravated assault.

3. Draw a tree with many branches and roots on the board. Ask students to fill out the "tree" of violence by naming different types of violence. Label a branch of the tree for each type. Next ask students to name the roots of violence and label the roots of the tree.

4. Ask students what they know about non-violence. Write the following definition on the board: Non-violence is a commitment to not act violently toward another or permit violence. Discuss.

5. Distribute HANDOUT #2. Have students count off from one to five. All students sharing the same number should assemble in the area designated for their group. Once the groups are assembled, each group should select a recorder to take notes for the group, a reporter to act as the group spokesperson and a group leader to make sure everyone in the group has an opportunity to speak. Each group should respond to the situations described.

V. GENERAL DISCUSSION

Review each hypothetical. Discuss the following:

- What would you do in the situation?
- How did you perceive the situation?
- Did your perception of the situation affect your choice or solution?
- What might happen next if you use your solution?
- What are some of the risks involved in non-violent action?
- What are some of the risks involved in not acting?
- Do you feel competent to confront some kinds of violence in non-violent ways? What kinds?
- What skills would be helpful when taking non-violent action?

VI. ADDITIONAL ACTIVITIES

1. Distribute HANDOUT #3. Review it and discuss with students the differences between violence and non-violence.

2. Distribute HANDOUT #4. Discuss the quotes from Dr. Martin Luther King, Jr. and Mahatma Gandhi.

3. Have students refer to newspaper and magazine articles on violence. Discuss how the violence depicted could have been resolved.

HANDOUT #1 - STOP THE VIOLENCE

Violence has become common in the United States of America. Everyday we see, hear or experience some form of violence. Murder, sexual assault, child abuse, injuries from fighting, riots at sporting or entertainment events, and other violent occurrences directly affect many of us and all of us are frustrated by the persistence and frequency of this violence.

Although most of this violence is obvious and unacceptable, a good deal of it is subtle and even condoned. Indirectly, we are exposed to daily violence on television, radio, and in the newspapers. Modern technology brings on-the-scene coverage of gun-battles, sniper attacks, riots, and other physical violence (from our own cities and towns and from around the world) directly into our homes . Movies and television entertain us with realistic and bloody dramatizations of murders, beatings, and tortures. Warlike video games have become a popular part of our culture. Our children routinely watch cartoons that depict violent events.

Surely, the constant exposure to physical violence, some of which we do not even recognize as violent, dulls our natural distaste for this behavior. Violence is so common that, not only do we expect and accept it, but many have also begun to view it as appropriate behavior. Frustrated by unemployment, difficult economic times, interpersonal or marital difficulties, racism, and other stresses of modern life, we sometimes respond in a variety of hostile and destructive ways. If we are to survive as healthy, responsible,and caring people, we must teach ourselves and our children that violence does not solve problems.

As a nation, we must make non-violence a personal priority. We can reduce the violence. We can change our lives. We can make our world a safer place for our children, our elderly and ourselves, making it easier for each member of our society to achieve her or his full potential.

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♦ ♦ ♦ ♦ ♦ ♦ 13

HANDOUT #2 - STOP THE VIOLENCE

Directions:
1. Identify the type of violence described.
2. Decide how to respond to the situation non-violently.

♦ ♦ ♦ ♦ ♦ ♦

- You see a parent hitting a child in the checkout line at the grocery store. What do you do?

- You are on the soccer team at a match. You see the coach curse, berate and humiliate one of your fellow team members. What do you do?

- You are in the hall at school. You hear a friend of yours make a prejudicial remark about another student. What do you do?

- You are at home and your parents tell you that you cannot bring someone home for dinner because s/he is of a different race. What do you do?

- You and a friend are walking past the bus stop and encounter a homeless person. Your friend says aloud: "He should get a job." What do you do?

HANDOUT #3 - STOP THE VIOLENCE
ALTERNATIVES TO VIOLENCE

by

Kathy Bickmore and the Northeast Ohio Alternative to Violence Committee

Differences Between Violence & Non-Violence

	VIOLENCE	N O N - VIOLENCE
Goals	To defeat opponent to a finish. Must humiliate, injure, corner, and/or destroy opponent.	To solve the problem; to work with the opponent or change her/his understanding to achieve a mutually satisfactory settlement.
Attitudes	Requires a strong hatred and fear of opponent to stimulate the necessary rage to attack and harm.	Requires courage to think and act clearly with self control, and sometimes to be willing to suffer at the hands of the opponent, without retaliation.
Principles and Techniques	1. Attack so strongly that the opponent has no alternative or choice.	1.a. Force the assailant into a dilemma such that further pursuit of her/his aims may be a disadvantage. 1.b. Offer many options for both sides to save face and yet reach a solution.
	2. Avoid one's own suffering at all costs and inflict all possible suffering on others.	2.a. Completely reject the use of violence. 2.b. Be willing to suffer but not cause anyone else to suffer. Some pacifists believe that suffering can be a powerful force for social change.
	3. Use all resources to get victory as soon as possible.	3. Use persistence and patience in reaching an equitable solution, acceptable to all concerned. This stems from the pacifists principle of thorough dedication to justice, and the understanding that the lasting change comes slowly.

4. Use public relations to distort truth where it serves own purposes or to cover own wrongful conduct.	4. Keep conduct and public relations as exemplary and truthful as possible, to create sympathy and understanding by the public and the opponent. Pacifism relies on an unfailing dedication to truth. To accomplish this on a mass scale, non-violent campaigns involve intensive training.
5. Act arrogantly to instill hatred and fear.	5. Act with integrity and humbleness to instill ***Respect*** and sympathy.
6. Be harmful.	6. Be helpful.
7. Rely on superior physical resources.	7. Rely on superior mental, creative and moral resources.
8. Stimulate hatred toward opponent.	8. Show ***Respect*** and caring. A famous pacifist principle is, "love your enemy."
9. Ignore or suppress a problem which results in violence to others if possible.	9. Do not take negative action, take positive action for change, even where it is difficult or risky.

CONTINUED ON NEXT PAGE

HANDOUT #3 continued - STOP THE VIOLENCE
WHAT HAPPENS WHEN NON-VIOLENCE CONFRONTS VIOLENCE?

In his excellent book, *The Power of Non-Violence,* Richard Gregg calls non-violence moral ju jitsu, meaning that non-violence throws the violent attacker off balance. When the attacker receives a violent response it gives her/him a certain reassurance and moral support. It shows that the intended victim has the same values, fears, and angers as the attacker. S/he can predict the victim's next response, plan for it, and use it to her/his advantage. But what if the response is non-violent? Calm, self control is not expected. In the face of blows that are not returned, the intended victim states a belief in truth and justice and asks for an examination of both sides. Resistance is offered, but only in non-violent ways. The acceptance of blows without retaliation proves sincerity. There is no fear or resentment shown. Often, instead, good humor and kindliness are reflected. The endurance of pain is startling. Feelings of curiosity and wonder begin to replace scorn as the aggressor realizes s/he does not face a crowd, but rather the opposite. The attacker is unbalanced and, as Gregg says, falls headlong into a new world of values in which s/he feels ignorant and at a considerable disadvantage.

Several factors are at work when the victim responds non-violently:

1. The aggressor is surprised and no longer fully in control of the situation. The intended victim, on the other hand, has taken the moral initiative.

2. Prolonged anger is exhausting, whereas training, clearness of purpose, and self control preserve the non-violent defender's (victim) energy.

3. The attacker's personality becomes divided as her/his more kindly motives are forced to come into conflict with her/his more selfish, violent motives.

4. The aggressor begins to look bad and becomes apprehensive about the effect of her/his aggressiveness on third parties. These third parties are swayed by the clear non-violence of the resister(s).

5. The new uncertainty about her/his own values, methods and position make the aggressor suggestible to change. Surprise tends to focus her/his attention on that which surprises her/him. The intended victim becomes more able to influence the aggressor than the other way around.

By removing fear, anger, dread of loss and a sense of separateness and substituting feelings of security, sympathy, ***Respect***, and good will, non-violence can overcome cruelty, greed, pride, and bigotry. Non-violence, even loving one's enemy, proves to be not just idealistic, but practical.

HANDOUT #4 - STOP THE VIOLENCE

From: The Words of Dr. Martin Luther King, Jr.
Newmarket Press 1984 - Selected & introduced by Coretta Scott King

"Violence as a way of achieving racial justice is both impractical and immoral. It is impractical because it is a descending spiral ending in destruction for all. The old law of an eye for an eye leaves everybody blind. It is immoral because it seeks to humiliate the opponent rather than win his understanding; it seeks to annihilate rather than to convert. Violence is immoral because it thrives on hatred rather than love. It destroys community and makes brotherhood impossible. It leaves society in a monologue rather than a dialogue. Violence ends by defeating itself. It creates bitterness in the survivors and brutality in the destroyers."

"Admittedly, non-violence in the truest sense is not a strategy that one uses simply because it is expedient at the moment; non-violence is ultimately a way of life that men live by because of the sheer morality of its claim. But even granting this, the willingness to use non-violence as a technique is a step forward. For he who goes this far is more likely to adopt non-violence later as a way of life."

From: The Words of Mahatma Gandhi
The Seeds of Peace New Society Publishers

"Non-violence, which is a quality of the heart, cannot come by an appeal to the brain."

"Non-violence is not a garment to be put on and off at will. Its seat is in the heart, and it must be an inseparable part of our being."

"Non-violence is a planet of slow growth. It grows imperceptibly, but surely."

STOP THE VIOLENCE
KEY CONCEPTS & VOCABULARY

assault	An intentional threat, show of force, or movement that could reasonably make a person feel in danger of immediate harmful physical contact. It can be a crime or a tort.
battery	An intentional, unconsented-to, physical contact by one person (or an object controlled by that person) with another person.
homicide	Killing another person.
institutional violence/ structural violence	A situation in which someone in society uses his/her institutionalized power to deprive others of their rights or needs, intentionally or unintentionally. This type of violence tends to be tacitly condoned and/or ignored by a sizable segment of our society. Racism is an example of institutionalized violence.
non-violence	Commitment to not act violently towards another or permit violence. Abstention from violence; avoidance of violence.
rape	The crime of imposing sexual intercourse by force or otherwise, without legally valid consent. The definition of what precise acts constitute rape differs from state to state.
violence	Any activity that prevents someone from developing to his/her full potential as a human being. Kinds of violence: Physical, emotional/psychological, institutional/structural. An exertion of physical force so as to injure or abuse. National Academy of Sciences definition: Behaviors by individuals that intentionally threaten, attempt to, or inflict physical harm on others. American Psychological Association definition: Immediate or chronic situations that result in injury to the psychological, social or physical well-being of individuals or groups.
violent crime	FBI definition: Murder, non-negligent manslaughter, forcible rape, robbery, and aggravated assault.

LESSON TWO

RESOLVING CONFLICT WITHOUT VIOLENCE

RESOLVING CONFLICT WITHOUT VIOLENCE

I. LESSON DESCRIPTION

This lesson provides some very practical guidance for those who wish to stem the rising tide of violence. The mediation steps set forth herein may be utilized time and again to peaceably ***Resolve*** conflict. HANDOUT's #1 & #2 may be applied to conflicts, hypotheticals and real cases highlighted throughout this text. This lesson can form the core of a conflict manager's training referred to in the appendix.

Students will work in triads to ***Resolve*** hypothetical conflicts non-violently. They will learn to mediate disputes through communication and reasonable behavior.

II. OBJECTIVES

1. Students will learn that mediation is better than violence as a solution to conflict.

2. Students will learn how to mediate effectively.

3. Students will understand how mediation skills can positively impact their daily activities and improve their communication proficiency.

III. KEY CONCEPTS & VOCABULARY

active listening	conflict management	triggers
conflict	mediation	

IV. STEPS

1. Ask students to describe events at school where they felt one person was treated unjustly or the outcome was unfair. List these on the board.

2. Explain to students that they will be learning to peacefully and fairly ***Resolve*** conflicts.

3. Distribute HANDOUT #1. Briefly discuss the contents with the class and answer questions.

4. Distribute HANDOUT #2 to the class. Discuss the mediation steps with the class.

5. Divide your students into groups of three. Each group member will serve as a mediator for one of three scenarios. The other members will each represent a party to the conflict in each scenario. The

teacher or resource person should be careful to keep track of the time. Three mediation sessions will take a minimum of 39 minutes. You may wish to stretch this lesson over more than one day.

6. Distribute HANDOUT #3 and read it with the class. Inform students that they are to take turns performing the role of mediator. When not acting as the mediator, they will perform the role of one of the parties to the dispute. Have each group begin with the first scenario and proceed to 2 and 3. Allow 1 minute for the groups to decide who is performing which role.

V. GENERAL DISCUSSION

1. Reassemble the class. Have each mediator from Scenario #1 briefly state how the conflict was resolved. After each group has responded, discuss Scenario #2 and Scenario #3.

2. Discuss how mediation could have resolved the conflicts listed by students at the beginning of this lesson.

VI. ADDITIONAL ACTIVITIES

1. Invite a mediator into class to discuss conflict resolution.

2. Have students identify newspaper articles about unresolved conflicts. Ask students to identify some possible fair resolutions of the conflict.

3. Have students act out the scenarios detailed in HANDOUT #2. Have each group ***Resolve*** the conflict non-violently. Have the class vote on which resolution achieved the most beneficial result.

4. For additional mediation experience refer to the scenarios from Lesson Three on Sexual Harassment and Lesson Six on Deadly Force. Have students apply the steps from HANDOUT #2 to each situation in those lessons.

5. Ask your school principal to work with you and your class to set up a school conflict mediation program. Contact PAD PSC for additional information.

VII. RELEVANT LAW

Some domestic relations courts are beginning to refer cases to mediation. The following is a sample referral order. [2]

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[2]Special thanks to Attorney/Mediator, Connie C. Harness, III, of Ogletree, Deakins, Nash, Smoak and Stewart in Charleston, South Carolina for supplying this sample order.

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

COURT OF COMMON PLEAS

CASE#_____

_____

_____

Plaintiff(s)

-versus-

_____

_____

Defendant(s)

The within action is pending in the Court of Common Pleas. The parties desire to mediate their controversy. Therefore, the within matter is, by consent of all parties, hereby ordered to mediation under the following terms.

a. The designated mediator is _____.
The parties may, by consent, choose another mediator; provided (1) they have obtained consent of the person so chosen to mediate the controversy within the rules and time constraints set forth herein and (2) the person so chosen has either been approved by the Court upon application or is a listed, participating court-annexed mediator;

b. The mediation process shall be completed by_____ .
Any request for extension of this mediation period shall be by written application to the Chief Administrative Judge of the Court of Common Pleas for Charleston County by the mediator and shall be granted for good cause.

During the mediation period this case shall not be called for trial, except upon conclusion of the mediation, unless the parties otherwise agree.

c. Referring attorney shall contact the appointed mediator within 10 days from the date of this Order for the purpose of scheduling the time and date of the mediation conference in consultation with other counsel. If the date, time and place cannot be mutually agreed upon it shall be chosen by the mediator, and the mediator shall send appropriate notice thereof to all parties and to this Court.

d. Mandatory attendance by Plaintiff(s), Plaintiff's counsel, Defendant(s) and Defendant's counsel is required.

e. Failure to appear and/or to participate in good faith may cause the Court to impose sanctions accordingly. The conference shall continue until the matter is resolved and/or impasse is declared by the mediator. Evidentiary matters may be presented and shall be

returned to the party presenting same at the conclusion of the mediation conference.

f. Referral to mediation does not automatically toll any pretrial discovery or other obligations or time constraints on discovery requests, interrogatory answers, production requests, request to admit, or any other time constraints, limitations or requirements imposed by law, Court Order, or rule of procedure.

g. All communications during the mediation conference are confidential. Court Reporters will not be permitted to attend. All communications are a part of settlement negotiations, and shall not be admissible at trial.

h. Compensation shall be paid to the mediator based upon an hourly rate to be ascertained prior to the appointment of the mediator, unless the parties use the designated mediator, whose fee is _____ per hour. The fee shall be paid at the conclusion of the mediation, and shall be paid equally by the parties unless otherwise agreed in writing.

i. The referring attorney is hereby designated to be_____ _____.

ORDERED that this matter is continued and shall not be called for trial during the mediation period set forth herein.

IT IS SO ORDERED this_____ day of _____ , 199__.

_____

Chief Administrative Judge
Court of Common Pleas

We consent:

_____ _____

_____ _____

Attorney(s) for Plaintiff(s) Attorney(s) for Defendant(s)

HANDOUT # 1- RESOLVING CONFLICT WITHOUT VIOLENCE

Successful Mediators...

- gain the parties' trust.
- communicate that all feelings are acceptable. There are no right and wrong feelings.
- listen actively and are able to repeat back what other people say.
- do not repeat what someone else says during the mediation. Keep things confidential.
- ask open-ended questions - beginning with words like "describe" or "how," but avoid "why" and "should".
- help the parties explain the situation from each party's perspective. Write down a problem statement so that all parties are focused on the same problem.
- help the parties identify their goals from the mediation.
- identify agreement points of both sides.
- help the parties identify various choices for resolving the dispute.
- help the parties identify workable solutions from the list of possibilities.
- help draft a written agreement.

HANDOUT # 2 - RESOLVING CONFLICT WITHOUT VIOLENCE
Steps For Mediators

1. Welcome all parties and thank them for trying to avoid violence by agreeing to mediate.

2. Explain the following rules:
   Everyone must remain seated.
   Look at the person to whom you are speaking.
   Do not interrupt each other; wait your turn to speak.
   Do not call each other names or put each other down.
   You may ask for a break at any time.
   Tell the truth. (1 minute)

3. Ask one of the parties to tell what happened. Give the person 1 minute to describe the problem from his/her point of view. Give the other party 1 minute to describe the problem from his/her point of view. Listen actively to identify common issues and areas of agreement. Ask any follow-up or clarifying questions you have. (2 minutes)

4. Allow each party to ask the other a question. (1 minute)

5. While constantly checking to be sure the parties agree, write out the problem statement. (1 minute)

6. Ask the parties to list alternative solutions to the problem. Ask each party what s/he can do to ***Resolve*** the problem. Once the list is developed; discuss the pros and cons of the suggested solutions. (3 minutes)

7. Encourage the parties to discuss the consequences of the most promising of the alternatives. Ask: Would this solve the problem? How can we continue? (2 minutes)

8. Write the final agreement down in simple direct language covering who is to do what, where, when and how. Include a sentence about what the parties should do if they feel the agreement is not being followed. (2 minutes)

9. The forgoing times are suggestions only. When using this guide in non-hypothetical situations the amount of time allotted to each step will increase.

HANDOUT # 3 - RESOLVING CONFLICT WITHOUT VIOLENCE

Directions: Each group of three students will work to peaceably ***Resolve*** the situation detailed below in a way that is fair to both sides. Each student should be the mediator one time. The person serving as mediator takes notes about each party's concerns, the desired outcomes and how the dispute is resolved. Mediators should follow the directions on Handout #2.

SCENARIO #1: Cherise is enjoying herself at a party, dancing to the music like the many others present. She knows she looks good in the new blouse she saved for weeks to buy. Just as she turns to the music, Tyresha also turns with a cola in her hand, spilling it entirely on Cherise. Cherise, not friends with Tyresha since she saw her then boyfriend Rodney with her, is furious. Tyresha apologizes, but Cherise is ready to make Tyresha, the intentionally evil spoiled brat she believes her to be, pay dearly for her action. Tyresha never dated Rodney, but was his academic tutor. She wants to continue tutoring him because she receives extra credit for helping others. Tyresha's friends have told her all the horrible things that Cherise has been saying about her. Just as Cherise grabs Tyresha, Markell, the host, sees what is about to happen and intervenes. Markell, the mediator, brings both young women into a quiet room to settle the dispute.

SCENARIO #2: Maurice and Marni, both age 8, are playing in the treehouse at Marni's home. It starts to rain. Thunder and lightening are in the distance. Marni, knowing her mother will be angry if she does not come inside during the bad weather, tells Maurice it is time to go. He does not want to leave the treehouse. After arguing with Maurice for several minutes, Marni tosses Maurice's toys out of the treehouse, breaking one toy truck, climbs out of the treehouse and goes inside. Maurice, furious at Marni, starts to climb out of the treehouse. He is startled by a bolt of lightening when he is one wrung from the ground, falls and twists his ankle. Maurice's parents want Marni's family to pay the medical bills and for the broken toy. Marni's family wants Maurice's family to pay for the ladder repair, but they feel no responsibility for the injury to Maurice. The mediator, Ms. Tyler, is to help settle the affair. Marni's family has insurance, but does not want to use it because their premium will go up.

SCENARIO #3: Jose and Thomas share the starting forward positions on the Baltic High basketball team. Each is jealous of the other. They rarely ever speak, and when they do it is to shout at one another for making a mistake on the court. They will not pass the ball to one another or pickup each other's man on defense if they can avoid it. On their way to the bus stop after school each is walking with two friends. The friends begin to debate who is the best player. They all begin shouting and finally Jose and Thomas are at each other's throats just as the school security guard comes upon the scene. Jose and Thomas are brought to the principal's office. Coach Nilan and the players do not think they should be suspended from Friday's game, but the principal thinks otherwise. The principal, nevertheless, agrees to let Jose and Thomas go to mediation. Referee Salt is brought in to mediate.

RESOLVING CONFLICT WITHOUT VIOLENCE
KEY CONCEPTS & VOCABULARY

active listening	Understand and identify what feelings are being expressed, then put what is said in your own words and check to see if you understand correctly.
conflict	Disagreement, contention, quarrel, controversy and clashing opinions.
conflict management	Skillful and tactful handling of disagreement.
mediation	The process of bringing about a peaceful settlement between or among disputing parties in conflict. Outside help in settling a dispute. A mediator can only persuade, not force a settlement.
triggers	Those events that lead up to or initiate the development of a conflict.

LESSON THREE

SEXUAL HARASSMENT
OR
FRIENDLY BEHAVIOR

WHERE IS THE BOUNDARY?

SEXUAL HARASSMENT OR FRIENDLY BEHAVIOR
WHERE IS THE BOUNDARY?

I. LESSON DESCRIPTION

Students will decide if certain behaviors are sexual harassment. Then they will reconsider the behavior after reviewing a sexual harassment fact sheet. They will work in small groups to identify inappropriate behaviors and solutions for dealing with such behaviors.[3]

II. OBJECTIVES

1. Students will understand what behaviors constitute sexual harassment.

2. Students will identify ways to respond to and deal with sexual harassment.

III. KEY CONCEPTS & VOCABULARY

assault battery hostile environment sexual harassment

IV. STEPS

1. Review KEY CONCEPTS & VOCABULARY unless this has already been accomplished.

2. Distribute HANDOUT #1. Ask students to indicate which behaviors they would classify as sexual harassment.

3. Discuss student responses to HANDOUT #1. Have students identify facts that would change their classification of the situation.

4. Distribute HANDOUT #2. Review the handout and discuss it in relation to HANDOUT #1.

5. Distribute HANDOUT #3. Have students count off from one to five. Have all students sharing the same number assemble as a group. Each group should select a reporter to share with the class the group's conclusions, a recorder to take notes for the group, and a group facilitator to ensure that each group member has an opportunity to participate in the discussion.

6. Assign each group one or two scenarios from HANDOUT #3 to discuss. Have each group determine if any behavior in their scenario

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[3]Special thanks to Pamela Dill, Esq., Mississippi PAD LRE Advisor, for her help on this lesson.

V. GENERAL DISCUSSION

Reassemble the class. Ask each group reporter to tell the class about his/her group's decision. Ask the class:

- Would you have come to the same conclusion? Why or why not?
- Did HANDOUT #2 give guidance for your response?
- In reality how do you think this scenario would be resolved?

VI. ADDITIONAL ACTIVITIES

1. Have students brainstorm ideas about what to do if they or one of their friends is being sexually harassed. Share the following "to do" tips with them if not repetitive:
   - Keep telling people about the harassment until you find someone who believes you.
   - Do not blame yourself.
   - Keep a written record of all incidents of sexual harassment including the date, where you were, what happened, who else was there and how you reacted.
   - Talk to the person at your school responsible for dealing with sexual harassment or another adult.
   - Tell the harasser you do not like his/her behavior and to stop it immediately.
   - Have an attorney advise you concerning filing a complaint with the United States Department of Education, Office of Civil Rights, or bringing a lawsuit under Title IX of the Federal Education Laws.

2. Invite an attorney or a human resources staff member of a local business or government agency to speak about sexual harassment in the workplace.

3. Invite a school district official to speak about the school district's sexual harassment policy.

4. Have students bring in newspaper and magazine articles about sexual harassment. Discuss.

5. Discuss how the Three "R" System, ***Respect, Reflect, Resolve***, could be used to avoid sexual harassment.

6. Invite the school counselor to class to discuss sexual harassment and the to do tips listed above.

7. Refer back to Lesson Two in this text and HANDOUT's #1 and #2. Using these handouts as a guide, have students work in triads (or quadrads with two mediators) to mediate the disagreements in scenarios 1, 3, 4, 5 and 6 from this lesson.

VII. RELEVANT LAW

FEDERAL EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Guideline on Sexual Harassment

Sexual Harassment is any "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where

- submission to such conduct is made, either explicitly or implicitly, a requirement of employment.
- submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual, or
- such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment." (29 CFR S1605.11)

TITLE IX

of the Educational Amendments of 1972 prohibits any person from being excluded from participating in, denied the benefits of, or subjected to discrimination on the basis of sex in any educational program receiving federal money. Title IX requires that every school district appoint a Title IX coordinator responsible for receiving and processing complaints of sexual harassment. Additionally, school districts must adopt a non-discriminatory harassment policy as well as implement a grievance procedure for Title IX compliance.

TITLE VII

of the Civil Rights Act of 1964 protects public and private employees against discrimination with ***Respect*** to compensation, terms, conditions, or privileges of employment based on race, color, religion, sex or national origin.

HANDOUT #1 - SEXUAL HARASSMENT OR FRIENDLY BEHAVIOR

Directions: Indicate whether you would classify the following situations as sexual harassment by circling the appropriate answer.

	SITUATION	SEXUAL HARASSMENT?
1.	Joe tells crude jokes at a staff meeting. Tanika is present at the meeting.	YES NO
2.	Same as #1, but Joe is Tanika's boss.	YES NO
3.	Juanita has pictures of shirtless men glued to the outside of her locker.	YES NO
4.	Ms. Smith, a math teacher, was helping Antoine catch up on some work Antoine missed when he was ill. Ms. Smith was sitting in a chair next to Antoine. Ms. Smith sat back and rested her arm on the back of Antoine's chair.	YES NO
5.	The debate teacher hugged every member of the team after they won a debate.	YES NO
6.	Mr. Nfume wrote, "It was a pleasure having you in my class" in Carrie's yearbook.	YES NO
7.	Bruno, a big football player, yelled to Reta, a petite freshman, "Get in. I'll give you a ride home."	YES NO
8.	Clyde said to Tina, "You're a woman, what do you know."	YES NO
9.	The boss said to the employee, "Let's go to the Holiday Inn to negotiate your raise."	YES NO
10.	A student grabs a teacher's rear.	YES NO
11.	Maggie says to Martin, "You're a man, of course you think you're right."	YES NO
12.	Boy says, "Looking good" as girl passes.	YES NO
13.	Girl says, "Looking good" as boy passes and tugs at his shirt.	YES NO
14.	Athlete has pornographic pictures in locker. Athlete at next locker is offended.	YES NO
15.	Claudio called Margarite a "b#$%@" on the school bus.	YES NO

HANDOUT #2 - SEXUAL HARASSMENT OR FRIENDLY BEHAVIOR
A STUDENT'S GUIDE TO UNDERSTANDING SEXUAL HARASSMENT AT SCHOOL AND ON THE JOB[4]

What is sexual harassment?

Simply stated, it is a form of discrimination based on sex, and if it occurs at school or work, you're protected by state and federal law.

More specifically, it is *unwelcome* sexual overtures in the workplace or school when 1) your education or employment depends on your putting up with or giving in to the overtures, or 2) the sexual overtures make a *hostile* environment.

The overtures may be from a person in authority like a supervisor at work or a teacher, or from a co-worker or another student. Both males and females may be victims of sexual harassment.

What is meant by unwelcome?

Unwelcomeness is in the mind of the victim. For example: one person may do or say something and it's enjoyed or taken as a compliment; a different person may do or say the same thing to the same person and it is unwelcome.

Does this mean I can be accused of sexual harassment even if I didn't intend to sexually harass anyone?

Yes. Intent is not part of the definition. Even though you may have thought it was just harmless teasing, or flirting or being funny, it's how the *other* person feels about the words or acts. In other words, you have to think about how your message will be received.

Since I can't read someone's mind, how do I know if my behavior is welcome or if I'm sexually harassing?

Try asking yourself these questions:

- Have I been told my actions are unwelcome or inappropriate?
- Would I say or do the same to someone of the same sex?
- Would I say or do this if my parent, girlfriend, boyfriend, or teacher were present?
- Would I want someone to say or do this to my sister or brother or girlfriend or boyfriend?
- Would I want my actions to be on the evening news?
- Is the person to whom I'm saying or doing this in an equal position of power as me?
- Do my words or actions show ***Respect*** for the other person?

If your answer is "no" to two or more of the questions, there is a good chance your behavior is unwelcome.

So if the words or acts are welcome, there is no sexual harassment?

Not necessarily. If other people in the same area who observe the behavior find it offensive and unwelcome, this can create a hostile environment which is a form of sexual harassment.

What are some examples of sexual harassment?

There is no absolute list because whether or not certain behavior is considered sexual harassment depends on whether others find the behavior unwelcome.

Here are some actions that are likely to be viewed as sexual harassment: dirty jokes, sexual name calling, comments about a person's physical/sexual development, requests for sex, nude pictures, touching, grabbing, pinching, generalizations about members of one sex or different expectations based on gender, graffiti or repeated requests for a date.

What can I do if I feel like I'm being sexually harassed at school or work?

Let the person know that you don't appreciate their words or acts. Be clear. Some people still think "no" means "yes." If you don't feel comfortable talking to the person, write a letter and keep a copy.

Talk it over with a friend or your parents.

Ask for help. Report it to a teacher, counselor, or principal if it occurs at school, or to your employer if it occurs at work.

If it doesn't stop, file a complaint. If this occurs at school, you can file a discrimination complaint with your school district and appeal the matter to the State Superintendent. If it's a work situation, it can be reported to the state's agency which deals with labor and industry. School officials and employers have a legal responsibility to put a stop to harassment.

What if I'm sexually harassed somewhere other than at work or at school?

The law provides specific protection in these places. In other places, like at a party or at the mall, you will need to rely on your assertiveness and your ability to avoid the person or leave the place. If the acts are severe enough, they may be the basis for criminal charges or a civil suit.

This all sounds pretty complex . . . Are there any simple solutions?

Sexual harassment could be wiped out with three steps:

- Expect equality and ***Respect.***
- ***Reflect*** about not only what you're saying or doing, but what the other person may be hearing and feeling. When in doubt, ask. ***Resolve.***
- Treat everyone with courtesy and ***Respect.***

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[4]by Kathryn Murdock, Legal Counsel, Oregon Department of Education. Originally printed in *LEXpress*, a publication of Oregon's Classroom Law Project. Reprinted with permission.

HANDOUT #3 - SEXUAL HARASSMENT OR FRIENDLY BEHAVIOR
SCENARIOS

Directions: Each group should develop a plan of action to ***Resolve*** the situation that involves all parties to the incident plus others who should be notified (ie: the police, parents, school administrators, teachers, school psychologists, etc.).

1. A student is walking to class when a substitute teacher calls out to her, "Looking good sexy! Keep trying to earn that A." She thinks nothing of it until later that day when the teacher is substituting in her math class. During class the teacher says nothing to the student. However, when the bell rings and the student is leaving class the teacher grabs her arm and says, "Where do you think you are going?" He immediately lets her go and smiles.

2. After a big basketball game the team returned to the locker room to shower and change. While the team was showering Habib took a picture of his friend, Tim, as a joke. The next day the picture was on the school student notice board and was distributed to female students. Students were yelling obscene things at Tim. The entire team was very upset and Tim refused to leave his house for two weeks.

3. Stacy and Henry met in their junior year. They became good friends. They began dating at the beginning of their senior year. Henry always told Stacy she would be perfect if only her chest was a little larger. Henry's comments upset Stacy. When Stacy asked Henry to stop talking about these things he said they were things she needed to hear and continued. When Stacy stopped dating Henry he began leaving her obscene messages on her answering machine and telling his friends that he had sex with Stacy, which was a lie.

4. Lavona needed a P.E. class to graduate. She had already taken a general P.E. class so her advisor suggested she take weight training. She was the only female in the class. When the boys talked about girls she didn't mind because she felt she had the inside scoop on what boys liked and disliked about girls. One day someone in class brought in a magazine with pictures of naked women to show to the rest of the class. Some of the boys decided to hang the pictures on the wall. When Lavona saw the pictures on the wall she felt sick. She asked the boys to remove the pictures. Instead, they wrote her name on the pictures and discussed which one looked the most like her. When she told the teacher about the incident, he told her she should have never signed up for an all boys class if she didn't want to be exposed to "young males' sexuality."

5. Chris, a seventeen year old high school senior, has a summer job working at a day camp for underprivileged children. His boss, Cindy, is a college freshman. The two become friends, but Cindy wants more. Chris is attracted to Cindy, but says that because school will be opening so soon

they will not be able to give their relationship a chance to grow before Cindy heads off to college. He'd rather remain just friends. Cindy overheard Chris explaining the same thing he told her to his friends. She decides, however, she does not like his decision. She starts to make sexual advances toward Chris and calls him at home at 2:00 in the morning to see if he is at home or out on a date. Cindy tells her friends she and Chris are now a couple. When Cindy sees Chris out with another girl, she tells the girl she is wasting her time because Chris is no good in bed. When Chris approaches Cindy about the rumors she starts to cry. When he hugs her to comfort her, she kisses him on the lips.

6. Jose, secretary to Jane, the company president, often complains to his co-workers that his boss frequently uses crude language, tells him off-color jokes and makes remarks about his staying late and their "getting together." Jane is married and Jose believes all this is probably a bluster, but says he feels extremely embarrassed by it and also feels uncomfortable when alone with her in her office, especially working overtime. Human Resources has been informed by Jose's co-workers, who say that Jose does not want to "make waves" because he is concerned about losing his job if he does.

7. Rolando, a senior manager for a large company, routinely leaves porn magazines lying around his office for anyone to see. Melany, his administrative assistant, informs the personnel department that she finds this offensive. Rolando claims that his office is private.

SEXUAL HARASSMENT OR FRIENDLY BEHAVIOR
KEY CONCEPTS & VOCABULARY

assault — An intentional threat, show of force, or movement that could reasonably make a person feel in danger of harmful physical contact; the aggressor need only have an apparent ability to inflict injury, there needs not be any actual touching, striking or kicking.

battery — An intentional, unconsented-to, physical contact by one person or an object controlled by that person, with another person.

hostile environment — An arbitrary barrier to sexual equality in the workplace; the problem must be severe and invasive.

sexual harassment — Using a position of power over a person's job, salary, grade, etc. to gain sexual favors or punish the refusal of such favors; it includes such things as unwarranted sexual innuendoes and maintaining an environment where employees feel sexually threatened.

LESSON FOUR

At Home In America:

Violence Attacks The Family

AT HOME IN AMERICA: VIOLENCE ATTACKS THE FAMILY

I. LESSON DESCRIPTION

Violence is everywhere in our society. A "cycle of violence" often begins in the home. This lesson examines family violence. It provides a great opportunity for you to bring representatives of law, sociology and psychology into your class. Please handle this subject with sensitivity.

This lesson looks at violence in the home against children and adults by family members. First students indicate where they stand on the issue of spanking children in the home. Then in groups they examine statistics and examples of in-home violence. Next, they list ways to avoid such violence. Finally, they draft letters to victims and perpetrators of family violence.

II. OBJECTIVES

1. Students will understand the serious nature of family violence.
2. Students will understand the relationship of family violence to delinquency.
3. Students will identify ways to avoid such behavior and its effects.

III. KEY CONCEPTS & VOCABULARY

abuse	cycle of violence	perpetrator
battered child syndrome	domestic violence	restraining order
battered woman syndrome	neglect	

IV. STEPS

1. Using 5 sheets of 8 1/2 by 11 inch paper, write each of the following phrases on a sheet: "strongly agree," "agree," "undecided," "disagree," and "strongly disagree." Tape the sheets on the wall far enough apart so that groups of students can stand near the sign indicating their response.

2. Write the following statement on the blackboard: Parents or guardians should be able to discipline their children by spanking them.

3. Have students think about the statement on the board, and then stand under/near the response that most closely resembles their belief. If one's answer is between agree and strongly agree s/he should stand between the two signs.

4. After all are standing, ask several students to state why they selected their places. Allow others to move if they are persuaded by their classmates. After about 5 minutes of discussion, have students return

to their seats.

5. Explain to students that the exercise they just completed was to get them thinking about domestic violence. Ask students to state what they think domestic violence means. List on the blackboard and discuss key words and phrases identified by students.

6. Distribute HANDOUT #1. Go over and discuss with students the items on the fact sheet.

7. Distribute HANDOUT #2. Have students count off from 1 to 5. Place students sharing the same number in the same group. Have each group evaluate 2 situations from HANDOUT #2. They should attempt to answer the questions listed on the bottom of the handout. Have each group appoint a reporter and recorder. Have each group reporter share the group's conclusions with the class.

8. Have each group list what children need in order to live healthy and happily and do their best. Compare their lists with a sense of belonging, a sense of competence, a sense of usefulness, and a sense of power or influence. Now have each student draft an open letter to the victim in one of their scenarios or to the perpetrator in one of their scenarios. In preparing letters students may also refer to HANDOUT #1, particularly the last paragraph.

V. GENERAL DISCUSSION

Discuss the following statements:

1) The "cycle of violence" is no excuse for juvenile delinquency or criminal adult behavior.

2) The survivors of abuse and neglect who do not become delinquent hold the key to a solution.

3) Since 95% of spousal abuse is committed by men, they need early and intense training on how to handle anger.

VI. ADDITIONAL ACTIVITIES

1. Invite a child advocate, domestic abuse counselor, or someone from the health and human services department from your community to class to discuss domestic violence in your community, how it effects young people and how to stop the cycle of abuse.

2. Invite a prosecutor who prosecutes child abusers or spouse abusers to speak about the "Battered Spouse Syndrome." This defense can be used when a battered spouse acts violently after being beaten or

abused for years. Should, for example, an abused wife go free for killing the husband who abused her for 10 years?

3. Invite a defense attorney to speak about representing alleged child and spouse abusers or victims who have turned on perpetrators.

4. Invite the school counselor in to discuss child abuse and neglect and its impact on the school work of victims.

5. Have your students read "Trifles", a short play by Susan Glaspell. Assign the roles and act out the play. Next, have students assume that the Ladies are caught hiding the evidence of the dead bird. Have each of the six groups write opening or closing statements to prosecute or defend the wife for murder and the other 2 ladies for obstruction of justice. Have all groups deliver their statements. Discuss. Ask an attorney in to assist with this activity.

6. Have students bring in magazine and newspaper stories about people involved in domestic violence. Discuss. Have students portray a mediation session using HANDOUT's #1 and #2 from Lesson Two about the situations in the articles students bring.

7. Have students portray a mediation for the situations listed in this lesson's HANDOUT #2.

VI. RELEVANT LAW (See KEY CONCEPTS & VOCABULARY LIST in this lesson & RELEVANT LAW section of Lesson Two)

HANDOUT #1 - AT HOME IN AMERICA
Domestic Violence Facts

Every 15 seconds a woman is battered in the United States by her husband, boyfriend, or live-in partner.

In general, 70% of men who abuse their female partners also abuse their children. (Bowber, Arbitell & McFerron, "On The Relationship Between Wife Beating and Child Abuse," in Feminists perspective on Wife Abuse, Kersti Yllo & Michelle Bogard, eds., 1988)

As violence against women becomes more severe and more frequent in the home, children experience a 300% increase in physical violence by the male batterer. (M. Straus & R. Gelles, Physical Violence in American Families, 1990)

62% of sons over age 14 are injured when they attempt to protect their mothers from attacks by abusive male partners. (Maria Roy, Children in the Crossfire, 1988)

8 times as many women report using physical discipline on their children while with the batterer than when living alone or in a non-abusive relationship. (Lenore Walker, The Battered Woman Syndrome, 1984)

More than 50% of child abductions result from domestic violence. (Geoffrey Grief & Rebecca Hager, "Abduction of Children by Their Parents: A Survey of the Problem," in Social Work, 1991)

Children who witness their mothers being abused suffer poor health, low self-esteem, poor impulse control, sleeping difficulties, and feelings of powerlessness. They are at high risk for alcohol and drug use, sexual acting out, running away from home, isolation, loneliness, fear and suicide. (Vaffe, Wolfe & Wilson, Children of Battered Women, 1990)

In 1992, there were 2.9 million reported cases of child abuse and neglect in the United States. Of the reported cases, 27% involved physical abuse, 17% involved sexual abuse, 45% involved neglect, 7% involved emotional abuse, and 8% were reported as "other", which includes abandonment and dependency. (National Committee for Prevention of Child Abuse, 1993)

In 1992, 1261 children died - 37% as a result of physical neglect, 58% as a result of physical abuse. (National Committee for Prevention of Child Abuse, 1993)

In 1991, children comprised 50% of the poor in the U.S. Children are more likely to become poor than other age groups. (Census Bureau, Poverty in the U.S., 1991)

Up to 50% of all homeless women and children in this country are fleeing domestic violence. (Elizabeth Schneider, Legal Reform Efforts for Battered Women, 1990)

Above List Compiled by National Coalition Against Domestic Violence.

CONTINUED ON NEXT PAGE

Childhood abuse increases the odds of future delinquency and adult criminality by 40%. (C. Widom, "The Cycle of Violence", National Institute of Justice, 1992)

The "Cycle of Violence" hypothesis suggests that a childhood history of physical abuse pre-disposes the survivor to violence in later years. This study reveals that victims of neglect are also more likely to develop later criminal violent behavior as well. (C. Widom, "The Cycle of Violence", National Institute of Justice, 1992)

Being abused or neglected as a child increased the likelihood of arrest as a juvenile by 53%, as an adult but 38%, and for a violent crime by 38%. (C. Widom, "The Cycle of Violence", National Institute of Justice, 1992)

One of the strongest positions taken on the relationship of abuse and delinquency comes from Fleisher's study of the Crips and Bloods which concludes that almost without exception these boys grow up in dangerous family environments. As a consequence these young men develop a "defensive world view," characterized by 6 attributes: 1) a feeling of vulnerability and a need to protect oneself, 2) a belief that no one can be trusted, 3) a need to maintain social distance, 4) a willingness to use violence and intimidation to repel others, 5) an attraction to similarly defensive people, and 6) an expectation that no one will come to their aid. ("Family Life and Delinquency and Crime", K. N. Wright and K. E. Wright, Office of Juvenile Justice and Delinquency Prevention)

HANDOUT #2 - AT HOME IN AMERICA:

Shocking stories rage across the nation. Some are so sensational they make the headlines, others just bring tears to your eyes. Children are being abandoned, beaten, molested and killed by the people who are supposed to love them. Husbands are throwing chairs at their wives. Wives are fighting back with violence. Brothers, sisters, aunts, uncles and cousins are all taking liberties with members of their families that shock even the most cynical. Will it stop? When? Below are just a few true stories from around the nation:

Washington, DC: An aunt was arrested for killing her niece. Neighbors heard a child's screams over several weeks and called the authorities to no avail. They arrived after it was too late. The pregnant aunt, who allegedly had psychological problems, beat her infant niece to death because she would not stop crying.

Oklahoma: Two young boys shot their father to death while he slept. The father allegedly had verbally and physically abused the boys and their younger brother and sister for years. Friends and family members, including the children's grandparents who lived next door, were too frightened by the father's threats to take action. The quiet, obedient children who tried to do well in school told authorities things at home were fine because they too feared their father's wrath. They acted after their father took liberties with their little sister.

Nebraska: A stepfather was convicted of child abuse for beating his son with a belt when the child forgot to put his toys away before school. The situation came to the attention of the police when a school physical education teacher noticed the boy could not do exercises in class. When asked what was wrong, the child told of his injury. There were bruises. The father denied wrongdoing, claiming to merely be disciplining his child.

New York: A mother was arrested upon returning home at 2:30 am for leaving her 4 and 5 year old children locked in their apartment alone. Police were alerted when the 5 year old boy woke up after midnight. Frightened that he and his sister were alone, he called 911. Police had to force the door open because the children were too small to open the top door lock. The apartment was in disarray, but the children were unharmed. A hot iron was found by police on the ironing board in the bedroom. The mother claimed to be visiting a sick relative in the hospital.

Oregon: The adoptive parents of 76 children from all over the world were arrested and charged with manslaughter for the death of three of their children. One 2 year old child died of starvation and the other two died of curable intestinal infections. The parents were also charged with criminal mistreatment of children, forgery, and theft and racketeering for engaging in a pattern of child abuse from 1980 to 1992. The family lived in a compound of dormitory like buildings. As many as 62 children lived in the compound at a time.

Directions: Your charge is to discuss the two scenarios assigned to your group and respond to the following:

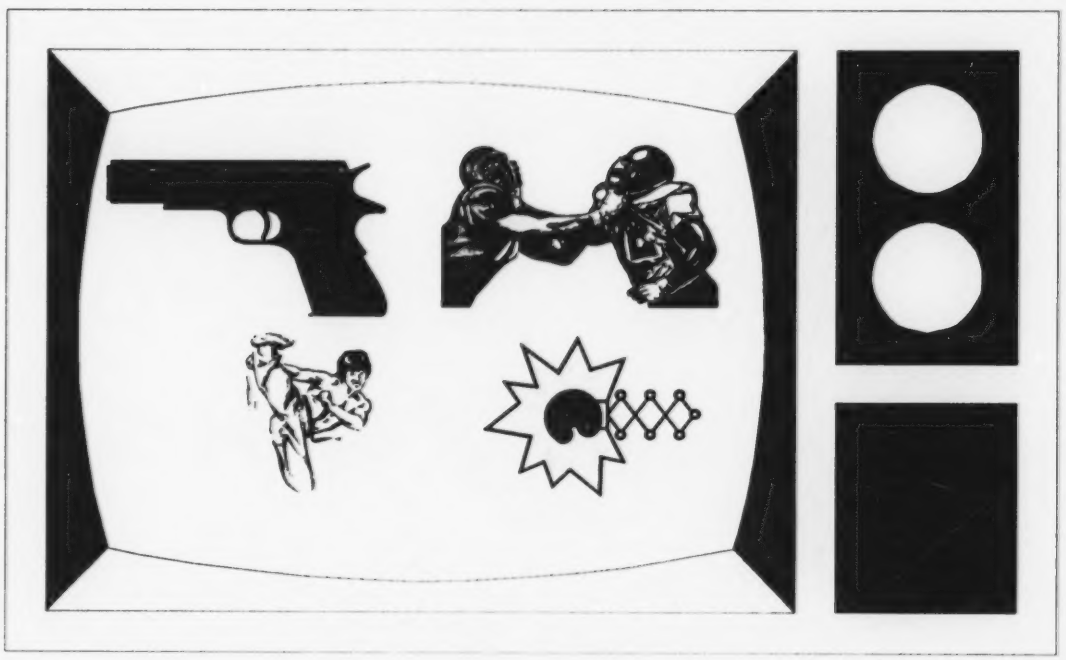
- What caused the person(s) to act? Was the behavior justified? Why or why not?
- Who should be punished? How? Who should receive counseling?
- How could the entire situation have been avoided? How would the Three "R" System apply to these situations?
- Does punishment after the fact deter abusive behavior? How could this behavior be deterred before the fact?
- What can the victims do? What limits should be placed on their actions?

AT HOME IN AMERICA
KEY CONCEPTS & VOCABULARY

abuse	To injure or sexually molest a child.
battered child syndrome	Results when a child is subjected to continued physical and/or mental abuse by his/her parent, refuses to tell anyone about it, but who often engages in an act of physical violence against the perpetrator.
battered woman syndrome	Results when a woman is subjected to continued physical and/or mental abuse by her husband or companion, refuses to tell anyone about it, but who often engages in an act of physical violence against the perpetrator.
cycle of violence	This hypothesis suggests that being abused and/or neglected as a child predisposes the survivor to violence later in life.
domestic violence	Violence in the home or among family members.
neglect	Failure of a parent or guardian to provide proper food, clothing, protection, and shelter for a child.
perpetrator	The person who commits a crime or does something abusive to another.
restraining order	A judge's order to a person to not take a certain action, such as visit, go within a certain distance of, or harass another person.

LESSON FIVE

TV VIOLENCE



GET REAL!!!

TV VIOLENCE
Get Real!!

I. LESSON DESCRIPTION

Students will analyze a violent sequence on television with their parents or teacher assisting and guiding them. They will utilize the TV violence gauge provided in this lesson. Students will identify the crimes committed during a violent sequence. Next they will examine the legal ramifications of attempts to censor violence. Finally, they will write their own 30 second Public Service Announcements about violence and TV.[5]

II. OBJECTIVES

1. Students will work with their parent and/or the class to apply a framework for analyzing a violent TV scene.

2. Students will understand the relationship between viewing violence on TV and increased acceptance of aggressive attitudes and behavior.

3. Students will be cognizant of the competing interests in the debate over TV violence.

4. Students will draft public service announcements about violence.

5. Students will analyze a short violent video segment.

III. KEY CONCEPTS & VOCABULARY

armed robbery	close up	murder	wide shot
assault	cut	narration	zoom
assault & battery w/ a weapon	edit	pan	
assault & battery w/intent to kill	FCC	sound on film	
battery	medium close-up	voice over	

IV. STEPS

1. Inform students of the following information:

   Children watch an average of 2-4 hours of television each day. The

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[5]Congress has been holding hearings on TV violence since 1952 and has formally addressed the issue at least eleven times. When government regulation is suggested two groups are riled; those in favor of free enterprise and those strongly in favor of free speech. This lesson, by Jack C. Hanna, PAD PSC's Managing Director, provides a TV violence gauge for students to complete which will help them understand the medium. Hanna has written and produced over 70 television programs for Public TV.

average child watches 8,000 murders and 100,000 acts of violence on television before finishing elementary school. By the time young people reach their 20's they have been witness to over 200,000 violent acts on TV.

According to the American Psychological Association "There is absolutely no doubt that higher levels of viewing violence in the mass media are correlated with increased acceptance of aggressive attitudes and increased aggressive behavior."

At recent Senate hearings on the issue, Senator Fritz Hollings said, "Children are uniquely influenced by what they see on television. Let me give a few examples: in 1979, a stunt man put a noose around Johnny Carson's neck and dropped him through a trap door. Johnny emerged unharmed, but 4-year-old Nick DeFlippo was found dead the next morning with a rope around his neck in front of a TV set tuned to NBC. The movie 'The Deer Hunter, which contains scenes of prisoners of war playing Russian Roulette with a gun to their heads, was aired on network television. Afterwards, 26 people were found dead because of self-inflicted gunshot wounds to the head. Recently, a five-year-old boy set fire to his home, killing his baby sister, after watching the TV characters 'Beavis and Butt-head' describe fire as 'cool'." Sen. Hollings favors banning violent programming when children are likely to be watching. Discuss.

2. Distribute HANDOUT #1. Ask students to work with their parents to view a television program and record a violent scene during the program. Ask students to work with their parents to complete the TV Violence Gauge on HANDOUT #1.

Review this activity in class by replaying scenes and walking through each item on the violence gauge. Invite an attorney to your class to describe the criminal laws violated and the civil legal consequences of each violent act.

3. Distribute HANDOUT #2. Divide your class into four groups. Inform each group that it is to create a script for a 30 second television Public Service Announcement (PSA) based on the goals of the group to which they have been assigned.

4. Distribute HANDOUT #3 to your students as a sample 30 second Public Service Announcement script.

5. Have each group act out or construct a storyboard for their PSA. Discuss.

V. GENERAL DISCUSSION

Have students discuss these statements:

1. If rising U. S. violence is caused by TV, why do Canadians, who see the same shows, not have the same degree of violence?

2. If we ban violence in movies and TV, what will we do about war movies like "Gettysburg" or "The Bridge over the River Qui"?

3. If we ban TV & movie violence and the violence rate does not drop, must we then ban Shakespeare, certain passages from the Bible and other classic writings that describe violence?

4. Canada's private broadcasters have adopted a voluntary ban on any programming that "sanctions, promotes, or glamorizes violence" or contains "gratuitous violence in any form." Why can't American companies do likewise?

5. Surveys indicate that parents are in the home with their children 90% of the time they are watching prime time TV. An adult is there 95% of the time. The key to this problem is parental and adult supervision.

6. It would be silly for the FCC to regulate broadcast TV when cable, movies, and video stores would not be impacted.

7. A combination of frantic clinging to Free Speech Rights coupled with intense adherence to the Right to Bear Arms is contributing to rising violence on TV and in the streets, meanwhile the welfare of children is ignored.

VI. ADDITIONAL ACTIVITIES

1. Ask an attorney to discuss with your students the constitutional problems in any law that tries to regulate speech, especially speech that is not pornographic, defamatory or fraudulent.

2. Invite your local cable network or TV owner to come to class to answer student questions.

3. Have students write and produce an anti-violence PSA in cooperation with a local TV station.

VII. RELEVANT LAW

First Amendment: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

Bradenburg v. Ohio, 395 U.S. 444 (1969) held that some categories of speech are entitled to narrow, if any protection. These include pornography, defamation, and fraud. However, the court spelled out clearly that otherwise protectable

speech cannot be punished unless it is "directed to inciting, or producing imminent lawless action and is likely to incite or produce such action."

HANDOUT #1 - TV VIOLENCE GAUGE

1. Name of TV program: _____ Channel:_____

   List visual images:_____

   _____

2. List words and sequence of events leading to the violence:_____

   _____

   _____

3. SOUND: How do the words affect the viewer? List the sound effects and the types of music playing during violence._____
   How do the sound effects and the music change?_____
   Does the volume increase?_____ Do the sound effects & music make the violence more intense?_____ How does the sound effect the viewer/listener._____

   _____

4. List instruments used to perpetrate the violence. Fists, guns, knives, etc..._____

   _____

   _____

5. Type of violence observed:

   Assault (threats)____
   Assault with a weapon____
   Assault & Battery with intent to kill____
   Battery (hitting)____
   Assault & Battery w/weapon____
   Murder____
   Rape____

   Other, describe: _____

   _____

6. What camera angles and camera editing techniques are used during the violent scene? What effect do these techniques have on the viewer? List close ups, quick edits, zooms, etc..._____

   _____

7. Is the scene real, fictional or is it a reenactment of something that happened? _____ Does it depict things that people really cannot do?_____

8. What are the long term & immediate consequences to the people involved in the violence? _____

   _____

   How realistic are those consequences?_____Do people walk away from fights, wrecks, gun shots?_____ How would these things feel in real life?_____
   What could be the civil & criminal legal consequences of the violence? _____

   _____

   _____

9. What could the participants in the scene have done to avoid the violence? Apply the Three "R" System. _____

HANDOUT #2 - TV VIOLENCE

Directions: You have been hired by the organization assigned to your group to develop a Public Service Announcement to sway public opinion to their goals & beliefs.

Parent-Teacher Organization--Beliefs: Have the Federal Communications Commission (FCC) require that all TV stations rate their own shows based on the quantity of violence and whether the overall message promotes violence, especially gratuitous violence. Require warning labels about violence. The FCC should distribute lists of advertising sponsors of programs with violent content. Require licensed stations to broadcast 1 hour of educational programming for children each day.

American Children's Organization--Beliefs: Change the film rating system from a focus on what is offensive to parents to a focus on what is harmful to children. Include the video market in film rating restrictions. Make the FCC require TV stations to participate in youth violence prevention outreach efforts before receiving a license. Ban the showing of violent programming during hours when children are likely to watch.

First Amendment Watch--Beliefs: Absolute opposition to Government involvement in private business programming decisions. In favor of Free Speech and Free Press with no government restrictions. Parents are in the home with children who watch TV over 90% of the time and should take the responsibility to tune to appropriate programming. Any government involvement through mandates or restrictions violates the Constitution.

Television United for Free Enterprise--Beliefs: Allow the industry to voluntarily reduce excessive and gratuitous violence on TV. There are 75,000 hours of TV programming each day on cable and broadcast. The government cannot afford to set up a bureaucracy to police this much television. The First Amendment absolutely protects the industry, and what we do to stop TV violence we will do because we want to, not because the government directs us. Voluntary parental advisories are a good start.

HANDOUT #3 - TV VIOLENCE
SAMPLE PUBLIC SERVICE ANNOUNCEMENT SCRIPT

VIDEO	AUDIO
Fade in to wide shot - Teacher in front of class.	**Teacher:** Who can give me the answer?
Cut to wide shot of class with hands high, eager to speak. Cut to ext. school. SOF - Violin music throughout. Background classroom noise.	**V.O.:** More than 3 million crimes a year are committed on or near the 85,000 U. S. public schools.
Cut to close up teacher smiling.	**Teacher:** Very good! Now, let's move on to the next chapter.
Cut video monitor with teacher looking at camera. Teacher holds remote toward camera - Clicks.	**Teacher:** Silence The Violence!

TV VIOLENCE
KEY CONCEPTS & VOCABULARY

armed robbery	The illegal taking of property from another by using force, threat of force and a weapon.
assault	An intentional threat, show of force or movement that reasonably could be interpreted as about to cause harmful physical contact.
assault & battery w/weapon	An intentional, unconsented-to, physical contact by one person and an object controlled by that person with another.
assault w/intent to kill	Occurs when one attacks another fully intending to kill for malicious reasons.
battery	An intentional, unconsented-to physical contact.
close-up	Face shot, a camera angle that reveals the subject in minute detail.
cut	Quick change from one video shot to another. Used to piece together or edit footage from two or more video tapes.
edit	The process of piecing together (combining) parts of one or several video tapes into one creative piece.
FCC	Federal Communications Commission.
medium close-up	Usually a head and shoulders shot. Used to describe how much of the person, object or panorama is included in the picture.
murder	The unlawful killing of a human being by another with malice aforethought.
narration	The words (not dialogue) stated in video or film by an individual acting as host or moderator.
pan	Long camera movement left or right that displays an entire panorama or scene.
sound on film (SOF)	The sound effects including music one hears during a video sequence often accompanying dialogue.
voice over	Narration without seeing the narrator. Words over video.
wide shot	A video shot which encompasses an entire scene.
zoom	Having the camera rapidly approach or leave an object or scene. Only the camera lens moves. Dramatic effect.

LESSON SIX

DEADLY FORCE

DEADLY FORCE

I. LESSON DESCRIPTION

Whether it is the Japanese exchange students shot in Los Angeles and Louisiana, the Police Officer in Dallas shot by a 19 year old listening to rap music about cop killing, or Malice Green, beaten to death by police in Detroit, ***Respect*** for human life is on the downside. This lesson attempts to define the circumstances under which it is justifiable to take a human life. We pray that this discussion will contribute in some way to stemming the tide of killing and assault in America.

This lesson will inform students of the legal theories surrounding deadly force and self defense.

This lesson will acquaint students with situations where deadly force and excessive force are used in appropriate as well as inappropriate circumstances. The students' roles will be to decide whether or not the conduct of the actor was reasonable or unreasonable, appropriate or inappropriate.

Students will work in small groups to discuss the fact patterns provided and decide upon a decision they think most favorable.

II. OBJECTIVES

1. Students will understand the appropriate use of deadly force, and how the appropriateness of an individual's judgment may be evaluated after the fact.

2. Students will learn that the dividing line between excessive force and deadly force in certain situations is not clear.

3. Students will identify ways to avoid violence.

III. KEY CONCEPTS & VOCABULARY

accused	deadly force	holding	self defense
burglary	duress	homicide	
common law	excessive force	justifiable homicide	
conspiracy	excused homicide	probable cause	
curtilage	felony	reasonable person	

IV. STEPS

1. We strongly recommend that you involve an attorney in the teaching of this lesson. It is a good idea to forward HANDOUT'S #1, 2, & 3 to the attorney in advance of the class visit.

2. Distribute the KEY CONCEPTS & VOCABULARY list to the class. Go over it with the class unless this has already been accomplished.

3. Distribute HANDOUT #1 to the class. Read it aloud and discuss it. Have an attorney explain the information in the handout.

4. Divide the class into 8 groups by having students count off from 1 to 8. All students sharing the same number will be in the same group. Distribute HANDOUT #2 and assign a scenario to each group. Each group should select a group facilitator to ensure all group members participate in the discussion, a group recorder to take notes and a group reporter to share the group's conclusions with the class.

5. Each group should determine whether the use of force in their assigned scenario was reasonable or unreasonable, justified or excused, appropriate or inappropriate and why. Also prepare an opening argument in accordance with the directions in HANDOUT #2.

6. Each group reporter should share his/her group's opening argument. Discuss.

7. Distribute HANDOUT #3. Have an attorney present to explain what the law would be in your state given the facts in each scenario. Do students agree or disagree with the decisions? Why?

8. Return the groups to HANDOUT #2. Ask students to identify ways that each of the participants in the case could have behaved differently to avoid having the situation arise in the first place. Discuss each case.

V. GENERAL DISCUSSION

Have students respond to the following:

1. Ask the students what guided them to the result they reached.

2. ***Respect*** for human life is declining in our country. Why?

3. Incidents such as the beating of Rodney King in L.A. and the killing of Malice Green by police officers in Detroit point out the need for police education on the issue of excessive force.

4. Police work is extremely dangerous. Some rappers have called for violence against police. A young man in Texas shot a police officer while listening to one of these rappers. The police are understandably trigger happy.

5. Some people feel justified in using deadly force against those with

whom they disagree (e.g. some of those opposed to doctors who perform abortions, international terrorists).

VI. ADDITIONAL ACTIVITIES

1. Have students bring in magazine and newspaper articles about the use of force by police or citizens. Discuss.

2. Obtain a copy of the October 1992 Lesson Plan of the Month, "Rock 'n Roll and Censorship" from Phi Alpha Delta Public Service Center. Conduct the lesson in class.

3. Invite a police officer to your class to discuss your town's official policy on using deadly force.

4. Have students bring in magazine and newspaper articles about battered spouse syndrome. Discuss. Ask an attorney and or psychologist to explain the concept. Debate.

5. Have students bring in magazine and newspaper articles about battered child syndrome. Discuss with an attorney and or psychologist. Why do you think they feel this way? Refer back to Lesson Four.

6. Apply the Three "R" System to the case scenarios on HANDOUT #2. Have students work in small groups with one or two students acting as mediators to apply the conflict resolution system listed on HANDOUT #2 from Lesson Two of this text. Have students approach the case scenarios as if they stopped just short of the violence. The mediation should avoid deadly force.

VII. RELEVANT LAW

40 Am. Jur. 2d *Homicide* § 141, 145, 162-164 167-70. (1968).
Commonwealth v. Harris, 281 A.2d 879 (Pa. 1971).
Garner v. Memphis Police Department, 710 F.2d (6th Cir. 1983).
Gil v. State, 266 So.2d 43 (Fla. Dist. Ct. App. 1972).
Hunter v. District of Columbia, 943 F.2d 69 (D.C. Cir. 1991).
People v. California, 116 Cal.Rptr. 233; 526 P.2d 241 (1974).
People v. Ceballos, 116 Cal. Rptr. 233;526 P.2d 241 (1974).
State v. Bess, 53 N.J. 10, 247 A.2d 669 (1968).
State v. Miller, 267 N.C. 409, 148 S.E.2d 279 (1966).
Truss v. Collier, 574 F.Supp.1249 (S. D. Ohio 1983).
U. S. v. Harris, 932 F.2d 1529 (5th Cir. 1991).
U. S. v. LaFleur, 952 F.2d 1537 (9th Cir. 1991).

HANDOUT #1 - DEADLY FORCE

Every day newspaper, radio and television sources cover stories involving the use of force by police and private citizens. In certain circumstances the use of force may be necessary and justified. In others, it is inappropriate and unlawful. The chart below will help you understand the times, places and circumstances where deadly force is appropriate and when it is excessive.

	JUSTIFIED	NOT JUSTIFIED
CITIZEN AT HOME[6]	•family present & fears serious bodily harm/ commission of serious crime	•family not home; protecting property only; Spring guns
CITIZEN AT PLACE OF BUSINESS	•person present and fears serious bodily harm/ commission of serious crime	•protecting property only
CITIZEN AT PLACE OTHER THAN HOME/PLACE OF BUSINESS	•after the following criteria are met: 1) user of force did not create the situation; 2) user of force had a real belief s/he was in immediate danger of death or serious physical injury; and 3) user of force did not violate duty to retreat	• if any of the 3 criteria in the justified column are not met
CITIZEN DEFENDING OTHERS	• if 3rd party could have used deadly force to defend self • to protect family member • if defender acted as reasonable person would have reacted RULE DIFFERS BY STATE!	• victim could not have used deadly force in self defense • defender did not act reasonably in using deadly force
POLICE	• facts of case show immediate threat to safety of officer or public (objective reasonableness)	• when not reasonable in light of circumstances

Tyrell and Barney are residents of Cinas. If Tyrell shoots Barney as he (B) breaks into Tyrell's home or office, Tyrell's use of force is justified and lawful so long as Tyrell fears imminent harm. If, however, Tyrell is on vacation and set up a spring gun to protect his property his actions would be excessive and unjustifiable.

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[6] Only when at home/place of business does an individual not have to retreat before using deadly force. Otherwise, to use deadly force in self defense a person must show: 1) the person using deadly force did not create the situation; 2) s/he had a real belief s/he was in immediate danger of death or serious bodily injury; and 3) s/he did not violate any duty to retreat.

Assume that Tyrell, while at the mall, pushed Barney and that Barney pulled a gun, could Tyrell use deadly force to protect himself? Footnote #6 applies here. First, Tyrell must show he did not create the situation. If he pushed Barney intentionally and created the situation, then he is not without fault. If, however, he accidently pushed Barney, he did not create the situation. Second, does Tyrell have a real belief he is in immediate danger of death or serious injury? If he sees the gun and has no reason to believe Barney is joking or not serious then he can defend himself. Finally, does Tyrell have any duty to retreat? He is not at home nor in his place of business thus, he should retreat if possible. So long as he tries to retreat, he can then defend himself. If Tyrell, after retreating, is being pursued by Barney he can use deadly force in self defense.

If Tyrell is in the movie line at the mall and sees Barney pull a gun on Violet can he use deadly force to defend Violet? The answer here depends on state law. Some states hold that if Violet herself uses deadly force, then Tyrell could too. Others would say Tyrell could use it if he acts as a reasonable person in the same situation. Thus, if the facts prove Violet is an actor practicing for a part while in line with Barney and is in no harm, but Tyrell did not know this and thought Violet was about to be killed, Tyrell's action may be justified based on his perception.

If Pablo, a Cinas police officer, sees Barney with a ski mask in hand running from a gas station and knows it had just been robbed, could he use deadly force to stop the suspect? Pablo must look at all the facts including whether Barney is a danger to Pablo's safety or the safety of others, whether Barney would otherwise be caught, Barney's overall dangerousness and all other information available to him at the time. Based on an analysis of the circumstances and Pablo's police experience, he could then react.

HANDOUT #2- DEADLY FORCE
SCENARIOS

Directions: Decide the issue presented by the scenario as to whether or not the accused's use of force was reasonable or unreasonable, appropriate or inappropriate & excessive. If you decide the deadly force was appropriate, prepare an opening statement for the defendant on trial for murder. If you decide the use of deadly force was inappropriate, prepare an opening statement for the prosecution charging the defendant with homicide. Each group reporter will be asked to stand and deliver the opening statement.

1. **Self Defense** - On April 24, 1993, Gil, Antonio and Peggy were together. Peggy and Gil became involved in a violent argument that resulted in an exchange of blows. Peggy was angry at what had happened and went home to get her shotgun. After retrieving it, she set out to look for Gil. Antonio and Gil were riding together and decided to stop at the store for ice cream. Peggy spotted Gil's car and pulled her pickup truck behind him to prevent him from backing out. Antonio got out of Gil's car to talk to Peggy and try to calm her down. Peggy and Antonio wrestled over the gun. Gil went inside and borrowed a revolver from the store clerk. By the time Gil got to Peggy's truck, Antonio had taken Peggy's gun away from her and quieted her down. Gil shot and killed Peggy on the spot. He now claims self defense.

2. **Defense of Property**- Other than a Dwelling - Bess, 18 years old, was working as bartender at Club Supreme to put himself through college. He was eighteen. In mid-afternoon, a patron, Grunden, was sitting at the bar enjoying a cocktail. Grunden ordered another whiskey and gave Bess a dollar. Bess gave him forty cents change. Grunden asked Bess, "What are you doing cheating me, huh? I normally pay fifty cents." He finished his drink and ordered another. Bess told him that the cost of the drink was sixty cents and if he wanted to complain he should take it up with the owner. Bess told him that he was not going to charge him fifty cents for a drink that was worth sixty. Grunden got up and approached the bar to go behind the counter. Grunden said, "I am coming to make my own drink." Bess told Grunden, "Don't come back here, I mean it." Grunden saw the gun Bess was holding which he had retrieved from behind the counter. Both men faced each other. Grunden nudged Bess. Bess stepped back and fired a bullet into Grunden. Bess now claims that his actions were necessary in defense of the bar.

3. **Necessity** - About 8:30 am, Harris was lying in bed in his second floor apartment. The apartment building has three stories and each tenant uses the front door entrance to gain access to his/her apartment. Harris thought he heard something outside of his door. Thinking that the building was being burglarized, Harris picked up his gun, aimed it at the front door and fired twice. No one had tried to gain entry to his apartment. As it turns out, the milkman was dropping off the day's milk and Harris mistakenly thought the building was being burglarized when he heard the bottles click together. The milkman is dead and Harris claims he acted under a belief that it was necessary to prevent a felony and therefore, the death should be justified or excused.

4. **Police Use of Deadly Force** - Kathy was walking her dog, Killer, on Fifteenth Street. Killer is a pit bull. As they were enjoying the scenic view, and strolling casually along, another dog from out of nowhere attacked Killer. The other dog belonged to Kenneth. Kenneth's dog was a German Shepherd. Kenneth was a police officer, but was off-duty. The two dogs viciously attacked each other. Kathy was unable to pull them apart. She was not far from home. She went home, retrieved her revolver and came back to the fight. She aimed her revolver in the vicinity of the dogs and fired. They continued to fight. Kenneth pulled out his gun and shot Kathy. She was hit with a bullet in the chest. Not knowing what Kenneth might do next, she tried to flee. Two more shots rang out. She stumbled to the ground, losing blood. Kenneth stood over her and attempted to shoot her again. Kenneth claims self-defense.

5. **Police--Non-use of Deadly Force** - Betty and Fred Torkelson had been married for five years, but like all marriages, their marriage was not without problems. On several occasions the police had been called to their home because the neighbors had complained of glass being broken and shots being fired at odd hours. The noise was normally the result of Betty having

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fits of rage towards Fred because he refused to pay the bills or take care of the yard work. One particular evening, Betty was outraged. She complained to Fred that the electricity had been turned off because he had failed to pay the bill. The bill was in the amount of $2,500. It had not been paid in over 8 months. Their neighbors heard glass breaking and called the police. Officers Bently and West knocked on the door. The noise ceased. Betty answered the door. The officers went inside. Fred was bleeding from the forehead. When asked about the wound, he said, "I walked into the door." The police had probable cause to believe that in fact Betty had struck Fred over the head with a lamp. It was on the floor in pieces spattered with blood. After discussing the situation in private, Officers Bently and West decided to arrest Betty. Fred disappeared when the fight started between Betty and the officers. He came back into the living room with a revolver and shot the officers. He claims that he acted in defense of his wife.

6. **Deadly Force in a Conspiracy** - Harris and Townsend started manufacturing methamphetamine (speed) in January, 1993. By March, 1993, the police became suspicious of both men's activities. They obtained a search warrant from the local magistrate and seized the tools and instruments that Harris and Townsend used to manufacture the drugs. Determined to make a go of it at any cost, both men started manufacturing speed at another location in May. Harris wanted to make more profits and hired Wendell to work for him selling drugs to willing buyers. As time went on, Harris and Townsend suspected Wendell of keeping back some of the profits from the sales. Wendell always turned in the monies he made from selling drugs on Saturday. Harris and Townsend decided to question Wendell about lost profits. Harris waited in the bushes with his knife while Townsend asked the questions. Tempers flared and Harris jumped out of the bushes and stabbed Wendell in the head. Harris and Townsend are being tried for murder. Harris argues that the homicide was justified since he acted to protect Townsend.

7. **Police--Deadly Force in Defense of Another/To Prevent a Felony** - Volt and Simi were best friends. They were both broke and came up with the idea of making some fast money. They agreed to meet at 1520 K Street. Both agreed to bring a gun. As planned they met on Saturday. They drove two hours in route to the "Jewelry Expo" which advertised a big sale. Volt and Simi knew that the store had done well in the past. Lewis was an off-duty cop employed by the store to discourage robbers. He carried a gun on his waist and monitored the revolving door which was the only entrance\exit in the store. Volt and Simi covered their faces with ski masks and walked towards the counter. The customers started hollering and panicking as soon as Volt and Simi made their entrance. Lewis crouched behind a plant. Volt and Simi were unaware of his presence because everyone in the store was frantic. Volt and Simi demanded all the money. The store manager and employees filled the bags quickly. As Volt and Simi were about to run out of the store, Lewis jumped from behind the plant, aimed his gun at both men and told them to stop where they were. Simi thought Lewis did not have the guts to pull the trigger, and relying on this hunch he pointed his shotgun at Lewis. In an instant, Lewis emptied his revolver of two bullets. Simi hit the floor dead.

8. **Duress** - Early on a Saturday, Otto took his wife shopping. He had $300 in cash. He told Fifi that he would wait in the car while she went shopping. She entered the mall. Nick and Holm approached Otto while he was sitting in his car and forced him to drive them 10 miles out of town. He parked the car in a secluded spot in the woods. At gunpoint, Otto got out of his car and walked with Nick and Holm. At the edge of the woods, both men opened fire on Otto and he died instantly. During Nick's trial he argued that Holm had threatened him and told him that if he did not shoot Otto, he (Holm) would kill Nick. Nick now claims that he had no choice but to shoot Otto. He claims he was under duress.

HANDOUT #3 - DEADLY FORCE
ANSWER SHEET

The cases you have discussed are loosely based on real cases or events. The following answers come from those cases.

1. Gil is guilty of first degree murder because he intentionally shot and killed Peggy. He may not claim self defense since he was no longer in danger. Peggy had been disarmed. See Gil v. State, 266 So.2d 43 (Fla. Dist. Ct. App. 1972).

2. Bess used more force than was necessary. Grunden's nudge did not rise to the level of provocation that would necessitate Bess' killing him. Grunden was unarmed. See State v. Bess, 53 N.J. 10, 247 A.2d 669(1968).

3. Harris acted unreasonably. No one attempted to enter his apartment. He is probably guilty of second degree murder because he acted with gross negligence and without regard to the consequences of his actions. See Commonwealth v. Harris, 281 A.2d 879 (Pa. 1971).

4. Kathy did not threaten Kenneth with her gun. She aimed at the dogs. At the time when Kathy fled, Kenneth was no longer in danger; therefore, his actions are probably not justified nor excused. This case is pending.

5. As it stands, if West or Bently die, Fred will be guilty of murder. He cannot claim to have acted in defense of his wife since the arrest was based on the evidence present and the officers did not use deadly or excessive force in effectuating the arrest.

6. Harris' actions constitute premeditation and deliberation. In one sense he planned to murder Wendell. He hid in the bushes for the right time to pop out and stab Wendell to death. The facts do not suggest that Wendell had a weapon or threatened Townsend. See U.S. v. Harris, 932 F.2d 1529 (5th Cir. 1991).

7. Simi provoked Lewis to fire his gun. Lewis may rightfully claim self-defense. Lewis may also be able to claim that he was stopping a fleeing felon. Simi and Volt did not use their guns during the commission of the robbery. See Truss v. Collier, 574 F.Supp. 1249 (S.D. Ohio 1983).

8. Duress is not a defense to the crime of murder. In most states, even if an individual claims that he was "under a gun to shoot someone," it will not be a viable defense. See U.S. v. LaFleur, 952 F.2d 1537 (9th Cir. 1991).

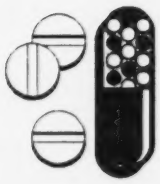
DEADLY FORCE
KEY CONCEPTS & VOCABULARY

accused	The individual who is suspected of committing the illegal act.
burglary	The breaking and entering of a dwelling at night with intent to commit a felony therein.
common law	Judge made laws, or law that has its origins in England and is based on the customs of the people.
conspiracy	Two or more persons in agreement to do a particular criminal act with the intent to do the illegal act.
curtilage	An area of household use immediately surrounding the home.
deadly force	Force that is calculated to take human life.
duress	Human force is present and compels an individual under threat to take a certain action.
excessive force	Normally associated with the conduct of police in arresting suspects in that the police officer uses more force than is required to effectuate the arrest.
excused homicide	Death occurring as a result of an accident.
felony	A crime resulting in incarceration in excess of one year.
holding	The core of a court's decision in a case.
homicide	Taking the life of one by another.
justifiable homicide	Individual is right to take the life of another; normally associated with self defense and crime prevention.
probable cause	Likelihood that a crime has been committed.
reasonable person	Takes reasonable, fair, appropriate, rational actions. In determining whether a person acted reasonably in a given situation one must decide whether a reasonable person of like age, intelligence, education, etc., would or could have acted the same in a similar situation.
self defense	The act of defending one's self, one's property or a close relative; justification for protecting one's self.

LESSON SEVEN
GANGS?

Violence
Turf
Cars

Guns
Peace
Family



Rob
Drugs
Control
Initiation

Death
Blue
Identity
Red

Children
Bang
Hood

Bond
Rat-tat-tat
Sign

WHAT ARE YOU TALKING ABOUT?

GANGS? WHAT ARE YOU TALKING ABOUT?

I. LESSON DESCRIPTION

Gangs, gangs, gangs. What is a gang? What does it do? Using California's legal checklist for gang activity, we attempt to define gang actions.

This lesson has been taught by an attorney/law student team and can serve as a partnership model for schools, attorneys and law school students. Using a law-related education approach, students will tackle realistic problems and learn the tough consequences of criminal gang activity. Attorney/law-student teams can help your students confront the legal issues related to gang activity and guide students toward informed decision-making.

This lesson uses sample California penal codes designed to deter criminal gang activity. Ask a cooperating attorney or law student to research your state's relevant penal code and adapt it for use here. Please note that this lesson examines the heavier penalties which the sample penal code establishes and presents the option of asking students to evaluate the effectiveness of this type of legal response to the gang problem.[7]

II. OBJECTIVES

1. Students will increase their understanding of the law as it relates directly to the issue of gangs.

2. Students will define and identify gang activity.

3. Students will practice active listening, paraphrasing, problem-solving and decision-making skills while examining penalties and consequences associated with criminal gang activity.

III. KEY CONCEPTS & VOCABULARY

arson	homicide	sentence enhancement
assault	manslaughter	specific intent
felony	robbery	witness/victim intimidation

You may also wish to have students review other relevant legal terminology, such as: defense attorney, prosecutor, judge, jury, and misdemeanor.

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[7]Special thanks to the California Citizenship and Law-Related Education Center (CLRE) in Sacramento for creating this lesson. PAD PSC and CLRE are working collaboratively on a new curriculum, You, Gangs and the Law, which actively involves attorneys and law students in the classroom.

IV. STEPS

1. Contact your local bar association, law school, and/or state LRE program to arrange to meet with volunteers interested in working with you on this lesson presentation. As a team, review the lesson and formulate an approach to each of the lesson components.

2. Ask students why people join gangs? Refer back to HANDOUT # 1 from Lesson Four infra. Read & discuss the 6 characteristics of gang members.

3. After introducing the attorney(s) and/or law student(s), open the lesson with a question about regulating people's behavior, such as: Why is it necessary to have laws that restrict certain types of behavior?

4. Review the definitions of specific intent and sentence enhancement using the KEY CONCEPTS & VOCABULARY list.

5. Distribute HANDOUT #1, Sample Penal Code (or a similar penal code from your state). Have students read the code aloud and then discuss with students the distinctions and implications of the sample penal code. Outline the different components of the statute by having students answer the following questions:
   - What criteria must be met in order for law enforcement to consider an individual a gang member?
   - Is it a crime for someone to join a gang?
   - What constitutes a "pattern of criminal activity"?
   - What is the legal definition of a "criminal street gang"?

6. Distribute and review the remainder of the KEY CONCEPTS & VOCABULARY unless this has already been accomplished.

7. Distribute HANDOUT #3, and have someone read the case summary aloud. Have the students count off from 1 to 5. Assemble all those sharing the same number in the same group. Each group should select a group facilitator to ensure all group members have an opportunity to participate, a group recorder to take notes, and a group reporter to report the group's conclusions to the class. Using HANDOUT #2 - Sample Penal Code Checklist have each group decide whether or not Gamez could be convicted in accordance with the sample penal code. The attorney, law student(s), and classroom teacher should help the groups in their application of the statute to the facts. After about 15 minutes, have a representative from each group share the group's decision with the entire class. Make sure the following questions are addressed:

   - Assuming Gamez is convicted of a felony, is it safe to conclude

that he actively participates in a gang?

- If he is found to be an active participant in a gang, was his crime committed for the benefit of, at the direction of, or in association with a criminal street gang?
- Is Gamez's group a criminal street gang? Is there enough evidence to conclude that one of the gang's primary activities is one or more of the listed crimes? Does the group have a common name or identifying sign? Do the members of his group collectively or individually participate in criminal street gang activity?
- Is there enough evidence to support a finding that there is a pattern of criminal activity (the attempted commission of two or more of the listed crimes)?
- Is the Officer's testimony admissible?
- Does the statute violate the U.S. Constitution? If so, how?

8. Based on the sample California penal code listed below (or one provided by your attorney/law student), briefly outline the penalties and enhancements if a conviction occurs in the case of *People v. Gamez*.
   - imprisonment in the county jail for a period not to exceed one year, but not less than 180 days or in a state prison for one, two, or three years.
   - an additional punishment of one, two, or three years if the offense is a felony.
   - remain in a prison for a minimum of 15 years if the crime is punishable by life in prison.

9. After each group has decided its answers to the questions asked, share with the students the information about *People v. Gamez*, provided in the RELEVANT LAW section.

V. GENERAL DISCUSSION

1. Are gang laws fair (is there a possibility of "guilt by association")?
2. Are gang laws necessary?
3. Now that you know the law, are you more or less likely to get involved in a gang?
4. Do gang laws violate First Amendment freedoms of speech and association?
5. What was your initial reaction to the sample penal code?
6. Are the statutes an appropriate response to the gang problem? Why or why not?
7. What impact will this type of law have on gang activity?

VI. ADDITIONAL ACTIVITIES

1. Have students write a poem, rap song, or short story or make a

collage that describes gang activity.

2. Have students collect and discuss news articles about gang activity.
3. Discuss the current local and/or national statistics regarding violence, homicide and death for the students' age group. Does the sample statute and/or your state's existing statute address these issues?
4. Write a poem, rap or short story beginning with the statement: "If I had the power to change things in my community, I would..."
5. Have students interview their parents or neighbors with ***Respect*** to their perceptions of the gang situation and potential legal remedies.
6. Write a newspaper article or editorial outlining the problem from the perspective of the student, law enforcement or the community.

VII. RELEVANT LAW

Wisconsin v. Mitchell, 508 U.S. 1993., 124 L.ED 2d.436, 113 S. Ct. 2194.

Mitchell, age 19, led a group of men in a near fatal racist attack on a 14 year old boy who happened to walk by just after Mitchell and friends had watched the home video of "Mississippi Burning." Just before the attack Mitchell, according to court records said, "Do you all feel hyped up to move on some white people?... There goes a white boy, let's get him."

The Supreme Court held that the sentence enhancement called for in this case was Constitutional because it punishes the hateful action which follows the expression of hatred. There was a close relationship between Mitchell's hateful words and the attack on the 14 year old boy.

People v. Gamez, 235 Cal. App. 3d 957

A jury convicted defendant of attempted murder and assault with a firearm against the same victim, assault with a firearm against three additional victims, discharging a firearm from a vehicle, and discharging a firearm at an unoccupied vehicle. The jury also found true enhancement allegations of great bodily injury and great bodily injury in discharging a firearm from a vehicle as to the first two counts, and for personal use of a firearm as to the first five counts. Finally, defendant was found to have committed all of the crimes in association with a criminal street gang in violation of Pen. Code, §186.22, subd, (b) (sentence enhancement for crime committed in furtherance of criminal street gang). At trial, police officers testified as experts regarding their knowledge of gangs in general and the specific gangs in the geographic area.

The Court of Appeals modified for reasons expressed in the unpublished portion of the opinion, and as modified, affirmed the decision. It held that the officers' testimony was admissible and, since it assisted the jury and was not based on gang activity, is constitutionally valid. It also held that there was sufficient evidence to support findings that there was a gang and that defendant committed the offenses in furtherance of criminal conduct by that gang.

HANDOUT #1- GANGS? WHAT ARE YOU TALKING ABOUT?
SAMPLE PENAL CODE*

(b) (1) Except as provided in paragraph (2), any person who is convicted of a felony which is committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall, upon conviction of that felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of one, two, or three years at the court's discretion. However, if the underlying felony is committed on the grounds of, or within 1,000 feet of, a public or private elementary, vocational, junior high, or high school, during hours in which the facility is open for classes or school related programs or when minors are using the facility, the additional term shall be two, three, or four years, at the court's discretion. The court shall order the imposition of the middle term of the sentence enhancement unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its choice of sentence enhancements on the record at the time of the sentencing.

(2) Any person who violates this subdivision in the commission of a felony punishable by imprisonment in the state prison for life, shall not be paroled until a minimum of 15 calendar years have been served.

(e) As used in this chapter, "pattern of criminal gang activity" means the commission, attempted commission, or solicitation of two or more of the following offenses, provided at least one of those offenses occurred after the effective date of this chapter and the last of those offenses occurred within three years after a prior offense, and the offenses are committed on separate occasions, or by two or more persons:

(1) Assault with a deadly weapon or by means of force likely to produce great bodily injury, as defined in § 245.
(2) Robbery, as defined in Chapter 4 (commencing with § 211) of Title 8 of Part 1.
(3) Unlawful homicide or manslaughter, as defined in Chapter 1 (commencing with § 187) of Title 8 of Part 1.
(4) The sale, possession for sale, transportation, manufacture, offer for sale, or offer to manufacture controlled substances as defined in §§ 11054, 11055, 11056, 11057, and 11058 of the Health and Safety Code.
(5) Shooting at an inhabited dwelling or occupied motor vehicle as defined in § 246.
(6) Arson, as defined in Chapter 1 (commencing with § 450) of Title 13.
(7) The intimidation of witnesses and victims, as defined in § 136.1.
(8) Grand theft of any vehicle, trailer, or vessel as described in § 487h.

(f) As used in this chapter, "criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more of the criminal acts enumerated in paragraphs (1) to (7), inclusive, of subdivision (e), which has a common name or common identifying sign or symbol, whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.

* Excerpted from the Street Terrorism Enforcement & Prevention Act, California Penal Code 186.22.

HANDOUT #2 - GANGS? WHAT ARE YOU TALKING ABOUT? CHECKLIST FOR SAMPLE PENAL CODE

___ I. The charged crime was committed for the benefit of, at the direction of, or in association with any "Criminal Street Gang."

___ II. Definition of a "Criminal Street Gang":

- ___ A. Any ongoing organization, association, or group of three or more persons, whether formal or informal; and
- ___ B. Common name or common identifying sign or symbol; and
- ___ C. One of its primary activities is the commission of one or more of the following crimes:
  - ___ 1. Assault with a deadly weapon or by means of force likely to produce great bodily injury;
  - ___ 2. Robbery;
  - ___ 3. Unlawful homicide or manslaughter;
  - ___ 4. Sale, possession for sale, transportation, manufacture, offer for sale, or offer to manufacture controlled substances;
  - ___ 5. Shooting at an inhabited dwelling or occupied motor vehicle;
  - ___ 6. Arson;
  - ___ 7. Witness or victim intimidation;
  - ___ 8. Grand theft of any vehicle, trailer, or vessel; and
- ___ D. Members individually or collectively engage in or have engaged in a pattern of criminal activity. A "pattern of criminal activity" involves:
  - ___ 1. Commission, attempted commission or solicitation of two or more of the eight crimes listed above.
  - ___ 2. With one or more of the offenses occurring after October 1, 1988; and
  - ___ 3. The last of those offenses occurring within three years after the prior offense; and
  - ___ 4. The offenses were committed on separate occasions or by two or more persons.

HANDOUT #3 - GANGS? WHAT ARE YOU TALKING ABOUT?
CASE SUMMARY

Case: *People v. Gamez* (with slight variations for teaching purposes).

Facts: On August 31, 1989, Yvette Costa and her sister Rachel invited Frankie and Guillermo, a member of the "Highland Street" gang who went by the nickname "Rambo", over for dinner. Guillermo parked his car in front of their house while he was there for dinner. Police believed he had recently been involved in a shooting directed at a rival gang, the "Southside F-Troop".

Later that evening, Yvette and Rachel were standing outside with their friends Loreno and Norma Quintana when a black Nissan truck came around the corner with its lights off. As it passed by the house, a person in the passenger seat pointed a gun out of the window and fired five to ten shots. Yvette screamed that the people in the truck were from "South", meaning the Southside. Loreno was shot in the back but survived. The others were not hurt.

Yvette identified the defendant, Gamez, as the shooter to investigating officers and at trial. She knew him by his gang nickname of "Hydro". Norma picked the defendant out of a photographic lineup. The defendant's residence was searched pursuant to a warrant and a black Nissan truck was parked in the driveway. A box of bullets, paper, books, a plaque, T-shirt, and a traffic ticket were seized. The plaque was addressed to the defendant's brother Jerry, a known Southside gang member, and had a reference to the Southside gang on it. The T-shirt had "Southside" printed on it. The traffic ticket was issued to the defendant while he had been driving the truck. The books and papers were from the defendant's school and had writing on them referring to the Southside gang and "Hydro".

At trial a police officer, who was an expert on gangs in the area of the crime, testified that the shooting was a "payback" for a prior shooting by the Highland Street gang against Southside. Pictures of the defendant with other Southside members "throwing" the gang's hand signs were introduced at the trial. One officer testified that several other Southside members had been arrested a year earlier for stealing a car. Based on his own personal knowledge of past crimes that Southside gang members have committed, conversations with other officers and statements by gang members, one officer gave his opinion that Southside was a criminal street gang engaged in a pattern of criminal activity.

Directions: You are the judge. Decide whether the sample penal code applies to Gamez. Assuming Gamez is convicted for the shooting & injury caused to Loreno, should Gamez's punishment be increased because of the penal code regarding gang activity? Is this fair? Also decide additional questions given to you by your teacher.

GANGS? WHAT ARE YOU TALKING ABOUT?
KEY CONCEPTS & VOCABULARY

arson	The malicious and unlawful burning of a building.
assault	An intentional threat, show of force, or movement that could reasonably make a person feel in danger of harmful physical contact.
felony	A serious crime; a crime with a sentence of one year or more in prison.
homicide	Killing another person (not necessarily a crime).
manslaughter	An unlawful killing without malice; less serious than murder.
robbery	The illegal taking of property from the person of another by using force or threat of force.
sentence enhancement	The increasing of a convicted person's prison sentence due to the circumstances, which can include the person's motivation for committing the crime, surrounding the crime.
specific intent	Intent beyond general willful intent to commit a crime and encompassing a definite particular or precise mental reason or motivation for the commission of a crime.
witness/victim intimidation	Actions taken to dissuade or prevent a witness/victim from testifying.

LESSON EIGHT

THE ROLE AND RESPONSIBILITIES OF CITIZENS TO RESPECT AND EXTEND RIGHTS

THE ROLE AND RESPONSIBILITIES OF CITIZENS TO RESPECT AND EXTEND RIGHTS

I. LESSON DESCRIPTION

Students will discuss the "American Dream".

Students will take and defend a position on the role of private citizens in obtaining, preserving and extending Constitutional Rights.

They will work in groups to develop strategies designed to obtain rights which have been denied or taken away.

They will discuss the struggle to make the Constitution apply to all citizens.

Finally, they will mediate differences among competing groups.[8]

II. OBJECTIVES

1. Students will identify the barriers that deter members of our society, especially minority groups, from obtaining the rights enumerated in the Constitution.

2. Students will make a comparative analysis of the strategies used by various African-Americans to obtain and extend their rights.

3. Students will try mediation to resolve the problems created by discrimination.

III. KEY CONCEPTS & VOCABULARY

black nationalism
disenfranchisement
nonviolent resistance
voter registration

IV. STEPS

1. Ask students to define the "AMERICAN DREAM." What general rights should all Americans have?

   Answers may include: political involvement, franchise, protection of the law, economic opportunity, social freedom and mobility, etc.

   Ask students to list some of the groups in America who have at one time or another been denied access to the American Dream. Have students give examples to support their selections.

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[8]Thank you Maurice Butler, teacher at Roosevelt High School in Washington, D.C., for creating this lesson.

Answers may include: African-Americans, Hispanics, Native Americans, women, Asian-Americans, Jews, Catholics, Irish Americans, gay, lesbian and bisexual people, etc.

Discuss the barriers that prevented each group from obtaining those opportunities or rights associated with achieving the American Dream.

Answers may include: racism, sexism, religion, ethnicity, fear, greed, etc.

Discuss the methods used by different groups to help them acquire the American Dream.

2. Distribute HANDOUT #1. Read the handout aloud to the class. Discuss the following:

   - Which of her Constitutional Rights were violated? How was she denied ***Respect***? How did those violating her rights fail to ***Reflect***?

   - What methods were used to disenfranchise Ms. Hamer?

   - What methodology did she use to obtain her rights, the rights of others and ***Resolve*** the situation?

3. Distribute HANDOUT #2. Read it aloud.

4. Tell students they will be working in small groups to determine a plan of action to obtain and protect the rights of Ms. Hamer. Have students count off from 1 to 4. All students sharing the same number should assemble in a common area. Each group should select a recorder to take notes about the group's discussion, a reporter to share the group discussion with the class and a group leader to ensure all group members have a chance to participate in the group discussion.

5. Groups 1 and 3 must respond to this task as a follower and believer of the philosophy of Malcolm X. Group members should read and discuss Malcolm X Explains Black Nationalism and their action plan to protect Ms. Hamer's rights.

   Groups 2 and 4 must respond to this task as a follower and believer of the philosophy of Martin Luther King. Group members should read and discuss Martin Luther King Explains Nonviolent Resistance and their action plan to protect Ms. Hamer's rights.

V. GENERAL DISCUSSION

1. Ask each group reporter to share the group's discussion highlights.

2. Ask the class to discuss the likely results of the plans that are implemented.

3. Inform students that the African American civil rights struggle more closely followed Martin Luther King's ideas than Malcolm X's. Discuss.

VI. ADDITIONAL ACTIVITIES

1. Distribute HANDOUT #3 to the class and read it aloud.

   Have students count off from 1 to 4. (If the class is large, have the class count off 1-5 with groups 4 & 5 working together. Two mediators will then work in each mediation.) Have all students sharing the same number form a group and assemble in a common area. Groups 1, 2 and 3 should review HANDOUT #3 and their role as specified on the handout as they will represent that interest in the mediation. Groups 4 and 5 should review the Steps For Mediation from HANDOUT #2, Lesson 2 - Resolving Conflict Without Violence.

   Randomly assemble one student from each group (two mediators if 5 groups were used.) Students, under the leadership of the mediator(s) should attempt to ***Resolve*** the conflict.

   After the mediations are complete discuss the following:
   - Do the agreements reached by each group ***Resolve*** the problem?
   - What U. S. Constitutional issues would be raised by each agreement?
   - What obstacles might there be to having the agreement followed by all parties?

2. Have students read the biographies of Malcolm X and Martin Luther King, Jr. Discuss.

VII. RELEVANT LAW

First Amendment

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Fourteenth Amendment

Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

1964 Civil Rights Act

TITLE VII of the Civil Rights Act of 1964 protects public and private employees against discrimination with ***Respect*** to compensation, terms, conditions, or privileges of employment based on race, color, religion, sex or national origin.

Voting Rights Act of 1965

The Voting Rights Act of 1965 was passed primarily to eliminate barriers (such as literacy test, poll taxes, voter intimidation and other obstructive tactics,) enacted in the southern United States designed to exclude African Americans from participating in the political process, and to provide the legal tools for assuring that African Americans could no longer be excluded from political life. Enforcement of the Act is nation-wide, however, as Section 2 provides that no voting practice or procedure may be used in any jurisdiction in the United States which "results" in the denial or abridgement of the right to vote on account of race, color or membership in a language minority. Under Section 5 of the Act, some jurisdictions are prevented from instituting new practices or procedures affecting the right to vote until they have obtained a determination from the United States Department of Justice or the United States District Court for the District of Columbia that the new practice is not discriminatory either in its purpose or in its effect. Section 203 of the Act mandates that certain jurisdictions provide bilingual election information. The Act was extended by Congress in 1970, 1975 and again in 1982.

HANDOUT #1 -
THE ROLE AND RESPONSIBILITIES OF CITIZENS TO RESPECT AND EXTEND RIGHTS

MS. FANNIE LOU HAMER REGISTERS TO VOTE IN MISSISSIPPI

"...I will begin from the first beginning, August 31, in 1962. I traveled 26 miles to the county courthouse to try to register to become a first class citizen. I was fired the 31st of August in 1962, from a plantation where I had worked as a timekeeper and a sharecropper for 18 years...

The plantation owner said, 'Fannie Lou, you have been to the courthouse to try to register,' and he said, 'We are not ready for this in Mississippi.'

I said, 'I didn't register for you. I tried to register for myself.' He said, 'We are not going to have this in Mississippi, and you will have to withdraw. I am looking for your answer, yea or nay.'

I just looked. He said, 'I will give you until tomorrow morning...' So I left the same night.

'On the 10th of September, they fired into the home of Mr. and Mrs. Robert Tucker 16 times trying for me. That same night, two girls were shot at Mr. Herman Sissel's [house]. Also they shot [into] Mr. Joe Maglon's house. I was fired that day and haven't had a job since...'

In 1963, Ms. Hamer was arrested and beaten by the state police after returning from a voter registration workshop. 'In 1964,' she said, 'my husband was fired the day after I qualified to run as a Congresswoman.' "

Reprint in the Congressional Record, June 16, 1964.

HANDOUT #2 - THE ROLE AND RESPONSIBILITIES OF CITIZENS TO RESPECT AND EXTEND RIGHTS

MALCOLM X EXPLAINS BLACK NATIONALISM

"We declare our rights on this earth to be a man, to be a human being, to be respected as a human being, to be given the rights of a human being in this society, on this earth, on this day, which we intend to bring into existence by any means necessary!

The political philosophy of black nationalism means: we must control the politics and the politicians of our community. They must no longer take orders from outside forces.

Concerning nonviolence: it is criminal to teach a man not to defend himself when he is the constant victim of brutal attacks.

In areas where our people are constant victims of brutality, and the government seems unable or unwilling to protect them. We should form rifle clubs that can be used to defend our lives and our property in times of emergency.... When our people are being bitten by dogs, they are within their rights to kill those dogs.

We should be peaceful, law-abiding-but the time has come for the American Negro to fight back in self defense whenever and wherever he is being unjustly and unlawfully attacked.

If the government thinks I am wrong for saying this, then let government start doing its job."

Statement by Malcolm X delivered to a New York press conference 03/12/64.

MARTIN LUTHER KING EXPLAINING NONVIOLENT RESISTANCE

"During the days of the Montgomery bus boycott, I came to see the power of nonviolence more and more. As I lived through the actual experience of this protest, nonviolence became more than a useful method; it became a way of life.

Nonresistance attacks the forces of evil rather than the persons who happened to be doing the evil. As I said to the people in Montgomery: "The tension in this city is not between white people and Negro people. The tension is at bottom, between justice and injustice, between the forces of light and the forces of darkness.... We are out to defeat injustice and not white persons who may be unjust.

It must be emphasized that nonviolent resistance is not for cowards. Nonviolent resistance does resist. If one uses this method because he is afraid or merely because he lacks the weapons of violence, he is not truly nonviolent. That is why Ghandi often said that if cowardice is the only alternative to violence, it is better to fight....

The phrase "passive resistance" often gives the false impression that this is sort of a "do--nothing method" in which the resister quietly and passively accepts evil. But nothing is further from the truth. For while the nonviolent resister is not physically aggressive toward his opponent, his mind and emotions are always active, constantly seeking to persuade his opponent that he is wrong--constantly seeking to open the eyes of blind prejudice.

Nonviolence does not seek to humiliate the opponent, but to win his friendship and understanding. The nonviolent resister not only refuses to shoot his opponent but he also refuses to hate him. To strike back in the same way as his opponent would do nothing but increase the existence of hate in the universe. Along the way of life, someone must have sense enough and morality enough to cut off the chain of hate...."

HANDOUT #3 - THE ROLE AND RESPONSIBILITIES OF CITIZENS TO RESPECT AND EXTEND RIGHTS

The year is 2015. You and your classmates have been invited by the government of Pango-Pango to participate in a five year exchange program. Pango-Pango, is now a U.S. territory governed by the U.S. Constitution and is (an island country located in the Pacific). During the late 1940's Pango-Pango was exposed to high dosages of radiation and now 95% of the native population have bad vision and must wear eyeglasses.

You and your classmates have fallen in love with this paradise and decide to live and raise your children there. You have noticed, however, that the natives who don't wear glasses are forced to live in poor neighborhoods, go to inferior segregated schools, have low paying jobs and are politically disenfranchised. You are aware of this for some time but you never actively responded to the situation because you wear glasses and the few classmates who had perfect, 20-20 vision were the ones you could not stand anyway. They were taken away from the group, forced to live on the southern end of the island and their travel visas were taken away from them so they could not leave the island.

The problem now is that your children are of the age where they are ready to go out in the community and they have been cursed with 20-20 vision. You will represent the members of the group to which you are assigned in a mediation. Go over your position with your group before the mediation session.

Group 1: Native Pangoians with 20-20 vision. They have lived on the island for centuries and have no desire to leave. They do, however, long to be included in the mainstream of Pango-Pango society and share the rights of their fellow countrypeople.

Group 2: Offspring of the American exchange students with 20-20 vision. They are very upset about the state of affairs and they want their rights now. They want to leave the island but cannot afford to go anywhere and don't have the right to travel.

Group 3: Wealthy Native Pangoians with bad vision. The task is to develop a plan of action to keep the people with 20-20 vision in their current status. The Natives with bad vision own the largest factory on the island and need cheap labor.

Group 4: You are the mediators. Your job is to help these three groups to come to an agreement that will ***Resolve*** their conflicts using the Three R system. Refer to HANDOUT #2 in Lesson Two infra and follow the directions for conducting a mediation.

THE ROLE AND RESPONSIBILITIES OF CITIZENS TO RESPECT AND EXTEND RIGHTS KEY CONCEPTS & VOCABULARY

black nationalism	Calling for black control of politics and politicians within the black community.
disenfranchisement	Denial of voting rights or the taking away of the right to vote of a person or a group of persons.
nonviolent resistance	Refusal to obey certain governmental laws or demands for the purpose of influencing government policy. Nonviolent techniques include boycotting, picketing and nonpayment of taxes. It is embodied in the passive resistance of Thoreau, Ghandi, and Martin Luther King.
voter registration	The process a citizen uses to qualify her/himself for the right to vote.

LESSON NINE

NEWLY FREE TO HATE

NEWLY FREE TO HATE

I. LESSON DESCRIPTION

This lesson focuses on xenophobia and hate crimes in Germany and provides an unemotional lead-in to a discussion of these problems at home. You will probably want to schedule at least two class sessions to cover this material. You may find it advantageous to bring in an attorney or professor to aid in the discussion of the German Basic Law and the U.S. Bill of Rights.

The lesson begins with a description of the phenomenon of the lifting of totalitarianism in Eastern Europe, particularly in East Germany, and the simultaneous rise in anti-semitism and hatred of foreigners. The lesson teaches the concept of the inviolability of certain provisions of the German Constitution or Basic Law and compares this with the process for amending the U. S. Constitution.

The lesson demonstrates the difficulty of legislating against hate crimes. The problem of the dominant culture and its relationship to minorities or "foreigners" in Germany will be highlighted in view of Germany prior to and during WWII and today.[9]

II. OBJECTIVES

1. Students will understand that an unanticipated result of freedom for Eastern Block countries was an increase in anti-semitism and hatred of and disrespect and violence against foreigners and minorities.

2. Students will evaluate solutions to the problems of intolerance and racial hatred in Germany.

3. Students will understand the role played by the German government's liberal political asylum policy, accepting all immigrants who are refugees from political oppression, as a contributing factor to the problem of racist violence.

4. Students will compare the problems of intolerance in Germany with the same problems in the United States.

5. Students will evaluate the concept of inviolability as a constitutional doctrine.

III. KEY CONCEPTS & VOCABULARY

anti-semitism hooligan political asylum

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[9]A special thanks goes to Dr. Irmgard Hantsche, Professor of History, University of Duisberg, Duisberg, Germany, for her assistance on this lesson.

culture shock	ideologue	totalitarianism
genocide	inviolability	xenophobia
Holocaust	neo-nazi	

IV. STEPS

1. Distribute the KEY CONCEPTS & VOCABULARY list to the class and review.

2. Have students bring in newspaper and magazine articles about hate crimes around the world and in the United States, the war in former Yugoslavia, and Neo-Nazi assaults in Germany.

3. Distribute HANDOUT # 1 to the class. Read it aloud. Highlight key points for students to remember.

4. Divide the class into 4 groups. Each group is to represent one of the contributing factors to racist violence in Germany, ie: 1) liberal political asylum 2) German history, 3) the economy and high unemployment, 4) culture shock. Ask each group to determine from the information in HANDOUT #1 how their factor contributes to the problem of racist violence in Germany. The groups may also consult any of the newspaper and magazine articles which have been brought into class. Each group should appoint a recorder and a reporter. Have each group report out their findings. Write key factors raised under each category on the blackboard.

5. Next, have each group reassemble and propose solutions to the problem of racist violence in Germany addressing the issues of the Basic Law, the rights of immigrants and the rights of the neo-nazi youth. As each group reports, write proposed solutions on the blackboard.

6. Distribute HANDOUT #2 to the class. Ask students to compare and contrast the U.S. Bill of Rights with the German Basic Law. Ask students to determine whether they think the solutions proposed in step five violate either the U.S. Bill of Rights or the German Basic Law and why.

V. GENERAL DISCUSSION

1. Ask students to point out rights listed in the Basic Law which are not listed in the Bill of Rights and vice versa. Ask students to vote on whether any rights listed in the Basic Law should be added to the U.S. Bill of Rights.

2. Review and discuss the magazine and newspaper articles that were brought in by students and the teacher.

VI. ADDITIONAL ACTIVITIES

1. Ask students to reassemble in four groups. Ask each group to determine whether the rights listed in the U.S. Bill of Rights should be inviolate or whether they should remain amendable and thus capable of being done away with through the amending process listed in the U.S. Constitution. Have each group report the pros and cons of the doctrine of inviolability and whether it should be implemented in the United States. See Article 19, Section 2 on HANDOUT #2.

2. Have students work in groups of four again. Ask each group to make a list of what they learned from the German experience that could help Americans reduce and eliminate hate crimes and racist and homophobic violence.

VII. RELEVANT LAW - See HANDOUT #2

R.A.V v St. Paul, 60 U.S.L.W. 4667 (U.S. June 22, 1992), reversed and remanded 464 N.W.2d 597 (Minn. 1991).
R.A.V, along with some of his teenage friends, constructed a cross by taping table legs together. It was set ablaze inside the fenced yard of an African-American family. He was arrested and charged under the Bias Motivated Crime Ordinance, which prohibits the display of a symbol which one knows or has reason to know "arouses anger, alarm, or resentment in others on the basis of race, color, creed, religion or gender".

The Supreme Court held the content of the message could not be regulated by the state because it amounted to censorship of ideas even though racist and filled with hate. St. Paul's desire to communicate to minority groups that it does not condone "group hatred or bias-motivated" speech does not justify selectively silencing speech on the basis of its content. (The St. Paul ordinance was invalidated because it prohibited speech based on the content of the message.).

Wisconsin v. Mitchell, 508 U. S. 1993., 124 L.ED 2d.436, 113 S. Ct. 2194.
Mr. Mitchell, age 19, led a group of men in a near fatal racist attack on a 14 year old boy who happened to walk by just after Mitchell and friends had watched the home video of "Mississippi Burning". Just before the attack Mitchell, according to court records said, "Do you all feel hyped up to move on some white people?... There goes a white boy, let's get him."

The Supreme Court held that the sentence enhancement called for in this case was Constitutional because it punishes the hateful action which follows the expression of hatred. There was a close relationship between Mitchell's hateful words and the attack on the 14 year old boy.

HANDOUT #1 - NEWLY FREE TO HATE

Many expected that the collapse of Communism in Eastern Europe would bring about a rise in tolerance and an embracing of democratic values. Unfortunately among certain portions of the population, quite the opposite has occurred. One of the first visible political trends in newly freed Eastern Europe was a rise in anti-semitism. A general belief in democracy seems to be tempered with a willingness to violate the tenants of a free society, sometimes at even the highest levels of government. In fact the number of hate crimes in Europe has increased over 300% in three years.

The problem of intolerance has generated a civil war in the former country of Yugoslavia where a Nazi Germany style program of ethnic cleansing or genocide has been attempted.

In Germany an interesting combination of history, culture shock, economics and constitutional doctrine have combined to create one of the most serious challenges to an established democracy's ability to cope with ethnic diversity. In attempting to analyze Germany's problem, students should be aware of the following:

♦ Hitler came to power in Germany in 1933 and began an official government policy of anti-semitism including discrimination against Jews in employment, education, voting and all areas of life. Hitler simply revised the German Constitution by majority vote to do away with the rights of the people. This policy led to the "Final Solution" adopted during World War II in 1942, the ultimate aim of which was to extinguish all Jews and Jewish life from Europe. This policy of extermination was also applied to homosexuals, gypsies and others. When Jews tried to escape to other countries, they were often denied political asylum by those countries. Ultimately around 6 million people were exterminated in death camps.

♦ When World War II ended, the allies and the Germans were determined not to repeat the mistakes of the past. They wrote a constitution for Germany in which the Basic rights of the people could not be taken away by a majority vote or by decree as Hitler had done. The freedoms contained in the German Basic Law were not ever supposed to be taken away under the present constitution. The rights were supposed to be inviolable.

♦ Article 16 of the German Basic Law reads: "No German may be extradited to a foreign country. Persons persecuted on political grounds shall enjoy the right of asylum." This provision produced an influx of refugees claiming political persecution.

♦ Germany is a very prosperous country and has been very attractive to immigrants as a way of improving life from a financial standpoint. During the first ten months of 1991 over 300,000 people entered Germany claiming political asylum. Almost 1 million foreigners are estimated to live in Germany illegally. It

takes the courts 3-5 years to determine whether a person who has applied for political asylum is in fact a political refugee or has come just to pursue a better life. Immigrants often work or go on welfare and have children in Germany while waiting on the courts to decide their fate. Their children speak German and become used to German culture. By then the German Government often allows immigrants to stay for humanitarian reasons.

- When the Wall came down in November, 1989, and Germany was united, many East Germans had unrealistic expectations of instant prosperity under democratic capitalism. Instead, many of them, especially the young with outdated or no skills have faced unemployment, hopelessness and welfare. West Germans have also been hit with higher taxes and greater unemployment. Reunification is costing a lot more than originally predicted by the government. Many Germans are taking their frustrations out on the so called "foreigners".

- In former East Germany, a totalitarian communist state, foreign workers from Communist Korea and Cuba were kept segregated from and out of the view of East Germans. East Germans were not accustomed to mixing with so called foreigners prior to the reunification of Germany.

- In the late 1980's prior to the dismantling of the Berlin Wall a skinhead youth movement began in East Germany. The communist government basically ignored the skinheads.

- In the first 8 months of 1991 there were 400 attacks in Germany against foreigners, left wingers, and homosexuals including one attack in which an African man was burned to death. The new nazi types who seem to more resemble soccer hooligans than Hitler ideologues claim that without foreigners there would be more jobs for Germans. They seem to ignore the fact that foreigners make up less than 1% of the East German population. Nevertheless, actual unemployment among East German youth runs as high as 25%.

- Now there are frequent reports of assaults, arson, brutal mob attacks and beatings of foreigners largely led by Neo-Nazi youth.

- Unification has not produced the hoped for single German identity, but has produced a nation divided and suspicious.

- The emergence of a politically visible radical right wing and racist attacks has combined with spiraling numbers of refugees from Yugoslavia, Romania and other formerly communist countries to produce a national resentment of Germany's liberal asylum law.

- Finally on May 26, 1993, the German legislature voted 521 to 132 for an amendment to authorize German border guards to turn away refugees who try to enter Germany through a neighboring country. This action also weakened the concept of inviolability set out in the second paragraph of Article 19 of the German Constitution, supra.

HANDOUT #2 - NEWLY FREE TO HATE
THE U. S. BILL OF RIGHTS

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment II

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

Amendment III

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed; which district shall have been previously ascertained by law,and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Amendment VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

Amendment IX

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

Amendment X

The powers not delegated to the United States by the Constitution, not prohibited by it to the States, are reserved to the States respectively, or to the people.

HANDOUT 2 Continued - NEWLY FREE TO HATE
THE BASIC LAW FOR THE FEDERAL REPUBLIC OF GERMANY

I. Basic Rights

Article 1

(1) The dignity of man shall be inviolable. To respect and protect it shall be the duty of all state authority.
(2) The German people therefore acknowledge inviolable and inalienable human rights as the basis of every community, of peace and of justice in the world.
(3) The following basic rights shall bind the legislature, the executive and the judiciary as directly enforceable law.

Article 2

(1) Everyone shall have the right to the free development of his personality in so far as he does not violate the rights of others or offend against the constitutional order or the moral code.
(2) Everyone shall have the right to life and to inviolability of his person. The liberty of the individual shall be inviolable. These rights may only be encroached upon pursuant to a law.

Article 3

(1) All persons shall be equal before the law.
(2) Men and women shall have equal rights.
(3) No one may be prejudiced or favored because of his sex, his parentage, his race, his language, his homeland and origin, his faith, or his religious or political opinions.

Article 4

(1) Freedom of faith, of conscience, and freedom of creed, religious or ideological (weltanschaulich), shall be inviolable.
(2) The undisturbed practice of religion is guaranteed.
(3) No one may be compelled against his conscience to render war service involving the use of arms. Details shall be regulated by a federal law.

Article 5

(1) Everyone shall have the right freely to express and disseminate his opinion by speech, writing and pictures and freely to inform himself from generally accessible sources. Freedom of the press and freedom of reporting by means of broadcasts and films are guaranteed. There shall be no censorship.
(2) These rights are limited by the provisions of the general laws, the provisions of law for the protection of youth, and by the right to inviolability of personal honor.
(3) Art and science, research and teaching, shall be free. Freedom of teaching shall not absolve from loyalty to the constitution.

Article 6

(1) Marriage and family shall enjoy the special protection of the state.
(2) The care and upbringing of children are a natural right of, and a duty primarily incumbent on, the parents. The national community shall watch over their endeavors in this respect.
(3) Children may not be separated from their families against the will of the persons entitled to bring them up, except pursuant to a law, if those so entitled fail or the children are otherwise threatened with neglect.
(4) Every mother shall be entitled to the protection and care of the community.
(5) Illegitimate children shall be provided by legislation with the same opportunities for their physical and spiritual development and their place in society as are enjoyed by legitimate children.

Article 7

(1) The entire educational system shall be under the supervision of the state.
(2) The persons entitled to bring up a child shall have the right to decide whether it shall receive religious instruction.
(3) Religious instruction shall form part of the ordinary curriculum in state and municipal schools, except in secular (bekenntnisfrei) schools. Without prejudice to the state's right of supervision, religious instruction shall be given in accordance with the tenets of the religious communities. No teacher may be obliged against his will to give religious instruction.
(4) The right to establish private schools is guaranteed. Private schools, as a substitute for state or municipal schools, shall require the approval of the state and shall be subject to the laws of the Lender. Such approval must be given if private schools are not inferior to the state or municipal schools in their educational aims, their facilities and the professional training of their teaching staff, and

if segregation of pupils according to the means of the parents is not promoted thereby. Approval must be withheld if the economic and legal position of the teaching staff is not sufficiently assured.
(5) A private elementary school shall be permitted only if the education authority finds that it serves as a special pedagogic interest, or if, on the application of persons entitled to bring up children, it is to be established as a interdenominational or denominational or ideological school and a state or municipal elementary school of this type does not exist in the commune (Gemeinde).
(6) Preparatory schools (Vorschulen) shall remain abolished.

Article 8

(1) All Germans shall have the right to assemble peaceably and unarmed without prior notification or permission.
(2) With regard to open-air meetings this right may be restricted by or pursuant to a law.

Article 9

(1) All Germans shall have the right to form associations and societies.
(2) Associations, the purposes or activities of which conflict with criminal laws or which are directed against the constitutional order or the concept of international understanding, are prohibited.
(3) The right to form associations to safeguard and improve working and economic conditions is guaranteed to everyone and to all trades, occupations and professions. Agreements which restrict or seek to impair this right shall be null and void; measures directed to this end shall be illegal. Measures taken pursuant to Article 12a, to paragraphs (2) and (3) of Article 35, to paragraph (4) of Article 87a,or to Article 91, may not be directed against any industrial conflicts engaged in by associations within the meaning of the first sentence of this paragraph in order to safeguard and improve working and economic conditions.

Article 10

(1) Privacy of posts and telecommunications shall be inviolable.
(2) This right may be restricted only pursuant to a law. Such law may lay down that the person affected shall not be informed of any such restriction if it serves to protect the free democratic basic order or the existence or security of the Federation or a Land, and that recourse to the courts shall be replaced by a review of the case of bodies and auxiliary bodies appointed by Parliament.

Article 11

(1) All Germans shall enjoy freedom of movement throughout the federal territory.
(2) This right may be restricted only by or pursuant to a law and only in cases in which an adequate basis of existence is lacking and special burdens would arise to the community as a result thereof, or in which such restriction is necessary to avert an imminent danger to the existence or the free democratic basic order of the Federation or a Land, to combat the danger of epidemics, to deal with natural disasters or particularly grave accidents, to protect young people from neglect or to prevent crime.

Article 12

(1) All Germans shall have the right freely to choose their trade, occupation or profession, their place of work and their place of training. The practice of trades, occupations, and professions may be regulated by or pursuant to a law.
(2) No specific occupation may be imposed on any person except within the framework of a traditional compulsory public service that applies generally and equally to all.
(3) Forced labour may be imposed only on persons deprived of their liberty by court sentence.

Article 12a

(1) Men who have attainted the age of eighteen years may be required to serve in the Armed Forces, in the Federal Border Guard, or in a Civil Defence organization.
(2) A person who refuses, on grounds of conscience, to render war service involving the use of arms may be required to render a substitute service. The duration of such substitute service shall not exceed the duration of military service. Details shall be regulated by a law which shall not interfere with the freedom of conscience and must also provide for the possibility of a substitute service not connected with units of the Armed Forces or of the Federal Border Guard.
(3) Persons liable to military service who are not required to render service pursuant to paragraph (1) or (2) of this Article may, when a state of defence (Verteidigungsfall) exists, be assigned by or pursuant to a law to specific occupations involving civilian services for defence purposes, including the protection of the civilian population; it shall, however, not be permissible to assign persons to an occupation subject to public law except for the purpose of discharging police functions or such other

functions of public administration as can only be discharged by persons employed under public law. Persons may be assigned to occupations - as referred to in the first sentence of this paragraph - with the Armed Forces, including the supplying and servicing of the latter, or with public administrative authorities; assignments to occupations connected with supplying and servicing the civilian population shall not be permissible except in order to meet their vital requirements or to guarantee their safety.
(4) If, while a state of defence exists, civilian service requirements in the civilian public health and medical system or in the stationary military hospital organization cannot be met on a voluntary basis, women between eighteen and fifty-five years of age may be assigned to such services by or pursuant to a law. They may on no account render service involving the use of arms.
(5) During the time prior to the existence of any such state of defence, assignments under paragraph (3) of this Article may be effected only if the requirements of paragraph (1) of Article 80a are satisfied. It shall be admissible to require persons by or pursuant to a law to attend training courses in order to prepare them for the performance of such services in accordance with paragraph (3) of this Article as presuppose special knowledge or skills. To this extent, the first sentence of this paragraph shall not apply.
(6) If, while a state of defence exists, the labor requirements for the purposes referred to in the second sentence of paragraph (3) of this Article cannot be met on a voluntary basis, the right of a German to give up the practice of his trade or occupation or profession, or his place of work, may be restricted by or pursuant to a law in order to meet these requirements. The first sentence of paragraph (5) of this Article shall apply *mutatis mutandis* prior to the existence of a state of defence.

Article 13

(1) The home shall be inviolable.
(2) Searches may be ordered only by a judge or, in the event of danger in delay, by other organs as provided by law and may be carried out only in the form prescribed by law.
(3) In all other respects, this inviolability may not be encroached upon or restricted except to avert a common danger or a mortal danger to individuals, or, pursuant to a law, to prevent imminent danger to public safety and order, especially to alleviate the housing shortage, to combat the danger of epidemics or to protect endangered juveniles.

Article 14

(1) Property and the right of inheritance are guaranteed. Their content and limits shall be determined by the laws.
(2) Property imposes duties. Its use should also serve the public weal.
(3) Expropriation shall be permitted only in the public weal. It may be effected only by or pursuant to a law which shall provide for the nature and extent of the compensation. Such compensation shall be determined by establishing an equitable balance between the public interest and the interests of those affected. In case of dispute regarding the amount of compensation, recourse may be had to the ordinary courts.

Article 15

Land, natural resources and means of production may for the purpose of socialization be transferred to public ownership or other forms of publicly controlled economy by a law which shall provide for the nature and extent of compensation. In respect of such compensation the third and fourth sentences of paragraph (3) of Article 14 shall apply mutatis mutandis.

Article 16

(1) No one may be deprived of his German citizenship. Loss of citizenship may arise only pursuant to a law, and against the will of the person affected only if such person does not thereby become stateless.
(2) No German may be extradited to a foreign country. Persons persecuted on political grounds shall enjoy the right of asylum.

Article 17

Everyone shall have the right individually or jointly with others to address written requests or complaints to the appropriate agencies and to parliamentary bodies.

Article 17a

(1) Laws concerning military service and substitute service may, by provisions applying to members of the Armed Forces and of substitute services during their period of military or substitute service, restrict the basic right freely to express and to disseminate opinions by speech, writing and pictures (first half-sentence of paragraph (1) of Article 5), the basic right of assembly (Article 8), and the right of petition

(Article 17) in so far as this right permits the submission of requests or complaints jointly with others.
(2) Laws for defence purposes including the protection of the civilian population may provide for the restriction of the basic rights of freedom of movement (Article 11) and inviolability of the home (Article 13).

Article 18

Whoever abuses freedom of expression of opinion, in particular freedom of the press (paragraph (1) of Article 5), freedom of teaching [paragraph (3) of Article 5], freedom of assembly (Article 8), freedom of association (Article 9), privacy of posts and telecommunications (Article 10), property (Article 14), or the right of asylum (paragraph (2) of Article 16) in order to combat the free democratic basic order, shall forfeit these basic rights. Such forfeiture and the extent thereof shall be pronounced by the Federal Constitutional Court.

Article 19

(1) In so far as a basic right may, under this Basic Law, be restricted by or pursuant to a law, such law must apply generally and not solely to an individual case, furthermore, such law must name the basic right, indicating the Article concerned.
(2) In no case may the essential content of a basic right be encroached upon.
(3) The basic rights shall apply also to domestic juristic persons to the extent that the nature of such rights permits.
(4) Should any person's right be violated by public authority, recourse to the court shall be open to him. If jurisdiction is not specified, recourse shall be to the ordinary courts. The second sentence of paragraph (2) of Article 10 shall not be affected by the provisions of this paragraph.

NEWLY FREE TO HATE
KEY CONCEPTS & VOCABULARY

anti-semitism A prejudice against Jews, hatred of and discrimination against Jews.

culture shock A sense of confusion, disorientation and alienation brought on by exposure to a different culture without adequate preparation.

genocide The deliberate systematic extermination or destruction of a racial, political, or cultural group.

Holocaust The slaughter of European Jews by Nazis during World War II.

hooligan A hoodlum, rioter or criminal; one engaged in random acts of violence and criminality.

idealogue An impractical political purist.

inviolability Free from attack; inviolable rights may not be attacked or substantially changed or taken away.

neo-nazi A present day adherent to the racist philosophy of the National Socialist Party; someone who believes in the philosophy of Hitler.

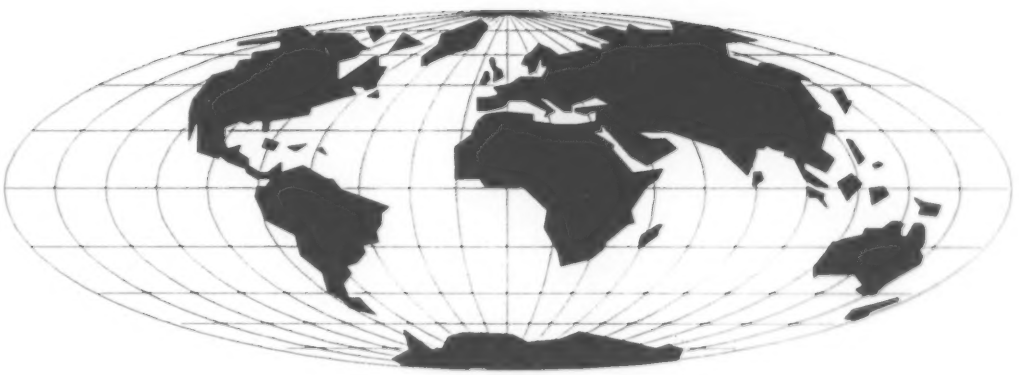
political asylum One country's protection of a refugee from persecution on political grounds by another country.

totalitarianism Centralized control based on the subordination of the individual to the state and strict control of all aspects of life by coercive measures; absolute state authority maintained by lack of freedom and exercised by a small minority.

xenophobia Fear and hatred of strangers or foreigners.

LESSON TEN

SEND TROOPS OR STAY OUT OF IT?



A Framework for Analyzing International Conflicts

SEND TROOPS OR STAY OUT OF IT?
A Framework For Analyzing International Conflicts

I. LESSON DESCRIPTION

Are we the cops of the world? If not, how do we decide when and to what degree do we get involved in international conflicts?

This lesson provides you with a framework for analyzing how the U.S. should respond to violent events abroad.

This lesson will acquaint students with various alternatives for the United States in response to ethnic violence, civil wars and acts of genocide abroad. Students will work in small groups and decide what they think the proper course of action is for the United States.

Teachers will be able to adapt this lesson to other international flare ups as they occur.[10]

II. OBJECTIVES

1. Students will evaluate different U. S. foreign policy options.

2. Students will select foreign policy options depending on the background of the conflict in question.

III. KEY CONCEPTS & VOCABULARY

Cold War	ethnic violence	unilateral
consensus	genocide	
ethnic cleansing	NATO	

IV. STEPS

1. Distribute the KEY CONCEPTS & VOCABULARY list to the class and review.

2. Have students bring in current magazine and newspaper articles on a current foreign ethnic conflict possibly calling for U.S. intervention.

3. Have students locate the country(ies) involved on the world map.

4. Have students discuss the background information on the conflict and

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[10]We are grateful for the assistance and expertise provided to us by ACCESS, a non-profit, non-advocacy information service on international affairs issues, located at 1511 K Street, NW, Suite 643, in Washington, DC 20005. Contact ACCESS for up-to-date data on international conflicts.

ethnic violence currently embroiling the area. Discuss.

5. Distribute HANDOUT #1 to the class. Have students divide into 4 - 6 groups depending on class size. Have each group select a recorder to take notes, a facilitator to ensure that everyone participates and a reporter to summarize for the class the group's discussion. Ask each group to weigh the different position strategies described in HANDOUT #1 and select the most appropriate way to resolve the conflict.

6. Have each group report on its discussion. Have the groups exchange observations.

7. Take a class vote on the best option for the United States.

V. GENERAL DISCUSSION

1. How can ethnic and racial hatred be obliterated?

2. What should be done with or to war criminals if peace is brought about?

3. Europe, after swearing "never again" once Hitler's genocide was exposed after WW II, has stood by and watched it happen again in Bosnia. Respond.

4. What is the role of the United Nations in solving foreign civil wars?

5. Should the United States act unilaterally in the face of conflict?

6. Ethnic conflict exists within many of our American cities and states. What steps can be taken to avoid having things turn violent? How can the Three "R" System apply to conflicts among groups as well as among individuals?

VI. ADDITIONAL ACTIVITIES

1. Have students bring in and discuss magazine and newspaper articles about international conflicts for several days prior to doing this lesson.

2. Have students bring in magazine and newspaper articles about Bosnia-Herzegovina, Somalia, Israel/Palestine, Angola, Tibet, Sri Lanka, or other world trouble spots. Have students summarize and discuss the articles and locate the trouble spots on the map.

   Repeat steps 5 - 7 of this lesson with regard to the trouble spot being discussed.

3. Invite a local professor, international law attorney, world history teacher, or foreign policy analyst to your class to discuss trouble spots.

4. Refer students to the RELEVANT LAW section of the lesson. Discuss human rights violations in the various trouble spots.

5. Distribute or read over the RELEVANT LAW section of this lesson and the newspaper and magazine articles brought in. Have students identify and discuss violations of these international agreements.

VII. RELEVANT LAW

INTERNATIONAL WAR TRIBUNAL

On February 22, 1993, the United Nations Security Council passed Resolution 808. In this Resolution the Security Council expressed "its grave alarm at continuing reports of widespread violations of international humanitarian law occurring within the territory of the former Yugoslavia, including reports of mass killings and the continuance of the practice of `ethnic cleansing.'" In response to these reported actions and violations, the Security Council decided "that an international tribunal shall be established for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991."

This international tribunal will operate in a manner similar to the Nuremberg Trials following World War II. Those accused of war crimes may face a trial by a special international court (or tribunal as it is referred to in the United Nations' documents).

The following represents excerpts from international agreements dealing with humanitarian law:

Universal Declaration of Human Rights (adopted December 10, 1948):

Article 2: Everyone is entitled to all rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a country belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 12: No one shall be subjected to arbitrary interference with his privacy,

family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 17, 2: No one shall be arbitrarily deprived of his property.

Article 18: Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 21, 1: Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

Article 28: Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully recognized.

Article 30: Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

International Covenant on Civil and Political Rights (effective March 23, 1976):

Article 6, 1: Every human being has the right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

Article 6, 2: In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgment rendered by a competent court.

Article 6, 3: When deprivation of life constitutes the crime of genocide, it is understood nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from the obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.

Article 7: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Article 8, 1: No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.

Article 27: In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community

with the other members of the group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.

The Convention on the Prevention and Punishment of the Crime of Genocide (effective January 12, 1951):

Article 1: The Contracting Parties confirm that genocide, whether committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, such as: (a) killing members of the group; (b) causing serious bodily or mental harm to members of the group; (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) imposing measures intended to prevent births within the group; and (e) forcibly transferring children of the group to another group.

Article III: The following acts shall be punishable: (a) genocide; (b) conspiracy to commit genocide; (c) direct and public incitement to commit genocide; (d) attempt to commit genocide; (e) conspiracy to commit genocide.

Article IV: Persons committing genocide or any of the other acts enumerated in Article III shall be punished whether they are constitutionally responsible rulers, public officials or private individuals.

Article VI: Persons charged with genocide or any of the other acts enumerated in Article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with ***Respect*** to those Contracting Parties which shall have accepted its jurisdiction.

HANDOUT #1 - SEND TROOPS OR STAY OUT OF IT?
United States Foreign Intervention Options

This exercise examines four commonly viewed strategies for intervention in foreign conflict. There are those who argue that no person or nation should have this awesome responsibility. Some say that the United States should take the lead. Others argue for the United Nations (UN) and still others argue that regional powers or organizations are the most logical answer.

"Intervention," as it is called in this handout, includes military action, but consists of much more. It includes a range of nonviolent actions that countries can employ in their attempts to influence or ***Resolve*** conflicts. Economic pressure, as in the use of sanctions, is another form of intervention. Choose one or combine several of the position strategies to deal with the conflict.

POSITION 1 - No international organization, no country, and no group of countries should intervene in world conflicts.

A majority of ethnic conflicts are civil conflicts, and it would be a mistake to violate the sovereignty of nations by intervening in their internal disputes or civil wars. Conflicts are difficult to watch, but it is best to let people solve their own problems.

No existing country or international agency is capable of intervention. The United States is already over-extended and must concentrate on its domestic problems. The UN mission in Somalia demonstrated its inability to deal with complex conflicts.

What this view requires of the United States:

* Take no action in conflicts not threatening U. S. vital interests no matter how barbaric the conflict is.

Some critics of this position would say:

* It creates an "anything goes" standard resulting in more conflicts and barbaric behavior.
* Conflicts often spread and somebody will have to get involved, usually when nonviolent options are no longer available.

POSITION 2 - The United States should take the primary responsibility for intervening in world conflicts.

The United States is the only power that can reliably and effectively step in when force is necessary. It should take this responsibility because it alone possesses the military and economic strength as well as the strong democratic and humanitarian ideals to carry it out. While the U. S. should not be the world police, it is the world leader. The U. S. should try to enlist the assistance and financial support of others, but should not become just "one voice among equals." Power still equals

strength, and the U. S. is still the strongest nation.

What this view requires of the United States:

* A restructuring of U. S. military forces to better implement peacekeeping efforts.
* A willingness to risk the U. S. armed forces for conflicts that seem removed from U. S. vital interests.

Some critics of this position would say:

* The U. S. needs to redirect resources to domestic concerns. We can't afford it.
* If the U. S. starts playing this role now, other nations will come to expect it and will not take their share of the responsibility. This was the case during the Cold War.
* This option presumes that what is good for the U. S. is good for the world, and vice-versa. In reality, the United States (like any other nation) has intervened primarily on its own behalf.

POSITION 3 - The United Nations should take the primary responsibility to intervene in world conflicts.

The Cold War is over. Now is the time to entrust the UN with the power to rapidly and actively intervene in world conflicts and counter aggression wherever it occurs. It makes sense to pool the military resources of all member states of the UN, making all countries responsible for conflict intervention. The United Nations must, among other things, create and maintain a permanent international army empowered to intervene in conflicts around the world.

What this view requires of the United States and other nations:

* A large investment of money, time, and other resources to establish the infrastructure of such a force.
* The willingness to risk the lives of citizens assigned to the UN force for conflicts that may not be seen as vital to a country's national interests.
* For nations contributing to the UN force, surrender of some of their national armed forces to UN commanders, who will, at times, be from a different country.

Some critics of this position would say:

* Since many current conflicts are internal ones, this kind of international force would too easily violate national sovereignty.
* This would entail the surrender of too much national sovereignty to an international body.
* In reality, the United Nations will frequently intervene to protect the status quo of nations, when it says it is intervening to "keep the peace." (This

criticism is often voiced by Third World countries.)

POSITION 4 - Regional organizations should be encouraged and strengthened to take the primary responsibility for intervening in conflicts in their regions.

Regional involvement and leadership is essential to the real resolution of any conflict, since every country is so heavily influenced by its relationships with its neighbors. The nations of the region are most apt to detect a conflict early in its development, to view it in its complexity, and to take effective action. Also, they are more capable of approaching the conflict with an understanding of the cultural and historical nuances.

What this view requires of the United States and other nations:

* The willingness to put monetary and diplomatic resources into encouraging regional security efforts and initiatives.

* The willingness to let regional groups take the lead in conflict intervention, even when it may run counter to perceived national interests of larger world powers.

Some critics of this position would say:

* This will not work in regions of the world that are dominated by "bullies," or that have a history of regional antagonism rather than cooperation.
* Regional parties may be least capable of taking leadership in resolving conflicts because of their very closeness to the situation at hand. As with domestic disputes, there may be the need for a so-called "neutral party" to become involved.
* This approach is a recipe for frequent meddling in the internal affairs of other countries, and no one country or group of countries has the right to do that.

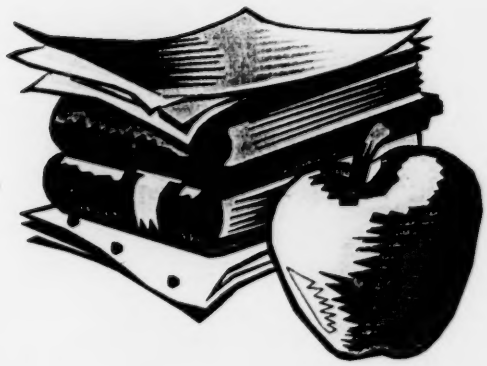
SEND TROOPS OR STAY OUT OF IT?
KEY CONCEPTS & VOCABULARY

cold war	The state of tension between the United States and the Soviet Union from the end of World War II (1945) to the breakup of the Soviet Union (1991). It is called a "cold war" because of the absence of armed conflict between the two nations.
consensus	To reach a common agreement or accord among a group.
ethnic cleansing	The efforts made by one ethnic group to exterminate or expel members of a different group from a region or territory.
ethnic violence	Violence aimed at a specific ethnic group.
genocide	The deliberate extermination of a racial, ethnic, political, or religious group of people.
North Atlantic Treaty Organization (NATO)	A collective defense organization based on the North Atlantic Treaty of Washington signed on April 4, 1949. It was the main Western forum for coordination of policies and defense efforts toward the Soviet threat in Europe.
unilateral	Action taken exclusively by one side or nation.

GUIDELINES

FOR

ESTABLISHING



A SCHOOL BASED

MEDIATION

PROGRAM

GUIDELINES FOR ESTABLISHING A SCHOOL BASED PEER MEDIATION PROGRAM

I. RATIONALE

Schools often respond to conflict by adopting get tough policies that restrict the creative opportunities to ***Resolve*** situations. Peer mediation recognizes the inevitability of conflict and provides methods for capitalizing on the learning opportunities it brings. Peer mediation teaches cooperative learning, good citizenship, peaceful conflict resolution, multicultural awareness and assertive as opposed to aggressive behavior.

Mediation provides students with the opportunity to find positive resolution to conflicts. Mediation produces win-win resolutions as opposed to lose-lose, win-lose or lose-win resolutions that violence produces.

Schools that adopt peer mediation can look forward to an improvement in the school climate, reduction in truancy, reduction in suspensions, refocused staff energy on positive matters as opposed to discipline, violence reduction, and improved communications among students and teachers.

Student mediators gain a feeling of personal power along with lifetime communication and mediation skills. Parents get the chance to enhance the mediation skills of their students by using the same conflict resolution process for in-home conflicts.

Mediation is not meant to replace the school discipline program. On the contrary it is designed to enhance it by becoming a tool in the overall discipline system which focuses on student-student conflicts. Students breaking rules like running in the hall, eating in class or other strictures against dangerous or negative individual behavior will receive traditional punishment.

Mediation is a response to the rising tide of violence in the United States, especially among young people. It gives young students a way to work together to keep each other alive. Mediation works best when all students receive a basic level of training in mediation techniques. This kind of broad training instills in all students a ***Respect*** for student mediators.

Successful mediation programs must have the support of the faculty, administrators, parents, and students. The programs are much improved if bias awareness, diversity, and acceptance are taught in conjunction.

II. STEPS IN SETTING UP THE PROGRAM

1. Deadlines/Schedule:
Set and adhere to a realistic timeline. If you want to begin the program in November, start preparing in April.

TASK	DATE	PERSON RESPONSIBLE
Get Principal's Support	**April**	**Dolly**
Train Core Group		
Program Intro	**May**	**Macbeth**
Core Training	**August**	**Beowulf**
Faculty Awareness	**September**	**Carrie**
Student Body Awareness	**September**	**Lowman**
Conflict Manager Selection	**September**	**Finn**
Conflict Manager Training	**October (15 hrs)**	**Baldwin**
Conflict Manager Graduation	**October**	**Morrison**
Parent Meeting	**November**	**Othello**
Begin Mediation	**November**	**Beatrice**
Supervise Conflict Managers	**November - June**	**Core Group**

2. Scope:
Decide which disputes or conflicts will be referred to your peer mediation program. Your goal is to prevent violence and bullying behavior. Decide if you will accept situations where a fight has already occurred. You could avoid further violence. Decide whether you will accept situations where a crime has occurred?

3. Train program manager in mediation:
Appoint a program manager for the mediation program. Arrange training in mediation for this individual. Carefully select a person with administrative talents who can train others. Forty hours of training are recommended for the program manager.

4. Sell the principal on the idea:
Selling points:

a. Mediation can reduce your workload.
b. Other schools are doing it successfully.
c. Illustrate downside cost of the program.

d. Mediation enhances the school's existing discipline program by becoming one tool in the whole discipline system.

5. **Sell the idea to the faculty:**
Identify a core group - which you will need on your side. Begin with the school counselor. Next identify the person, probably the assistant principal, who really solves discipline problems at school. Building managers should become part of your core group. They will be asked to schedule and provide locations for mediation sessions.

6. **Train the core group:**
The core group also identifies and evaluates student conflict managers. The core group is the buffer zone to the faculty.

7. **Provide an awareness session or orientation for the whole faculty:**
Ask the faculty to introduce the idea to their students and to conduct a lesson. Explain the scope of the program and the intake and referral process. You must gain faculty support to successfully institutionalize the program.

8. **Select student conflict managers:**
Faculty and administrators handle this. Do not pick just the regular student leaders. Select a diverse mix of at risk and regular leaders. Selection criteria should include good communication skills and leadership qualities. Let students help in the selection process. Interview potential student conflict managers and ask why are they interested. Select those with a deep commitment.

9. **Involve parents:**
Write a letter to the parent(s) explaining the conflict mediation program and how they can reinforce the program by using the same conflict mediation methods at home and by giving their child praise when the child uses the mediation techniques at home. Conflict mediation techniques are listed in Lesson Two in this text.

Write the parent(s) of potential student conflict managers and ask permission for their child to serve.

10. **Train conflict managers:**
ROLE PLAY - Do activities to build team spirit among conflict mediators. Have students practice on hypothetical cases. Provide 15 hours training. See Lesson Two in this text for sample training lesson.

11. **Keep all mediations confidential.**

12. **Intake:**
Establish a process to identify conflicts appropriate for mediation and refer those conflicts to mediation. This will be influenced by the decisions you

make in SCOPE above.

Teachers assign students to mediation, as opposed to detention, for those conflicts that are within the scope of your program. Decide whether students can make referrals and whether self referrals are appropriate.

Decide whether mediation should always be voluntary. Use the forms on the following pages for conflict referral and for drafting mediation agreements.

III. TECHNIQUES THAT WILL HELP MAKE MEDIATION SUCCESSFUL:

A. Establish a procedure for the mediation and follow it. Set out basic negotiating procedures such as:
- who will speak first, second, etc.
- interruptions of another speaker are prohibited
- the amount of time each party will have to tell his/her story
- the amount of time parties have to state what s/he seeks as an outcome

B. Facilitate the mediation: Get each party to clearly state his/her position and help them listen to the opposing side:
- clarify situations by asking questions
- share with parties how similar situations have been dealt with
- focus the parties on areas of agreement; highlight common interests
- summarize each stage of the discussion
- create a positive physical environment

C. Help maintain efficient communication:
- clarify what each party said or intended to say; filter information
- ask for assistance in understanding unclear points
- use role reversal techniques to help parties understand the other's position

D. Manage a conflict:
- legitimize conflict
- move the discussion to points of less conflict
- acknowledge and control emotional issues
- take a break if things get too heated
- prevent comparisons between one sides's present and past position
- ignore bluffs and threats

E. Help move to productive discussions:
- pick up hints of possible concessions; determine concessions each side could make

- help identify the underlying dispute
- balance the power
- identify agreement points of both sides
- interpret "self interest" in a proposal when recipient is skeptical of an offer

F. Assist parties by breaking deadlocks:
- convince one side that his/her high demands will cause resistance by the other side
- pick up hints of what parties might concede; suggest possible concessions
- offer a convincing rationalization for a specific concession

IV. BASIC REQUIREMENTS FOR A SUCCESSFUL MEDIATION

1. The parties must be identifiable and present. All must be present and involved in the mediation process; otherwise, essential interests will be ignored and essential parties will be left out of the agreement process.

2. The parties must know what they want. They must be able to recognize and vocalize their interests. They must have some internal unity; if one party is composed of a group of individuals, that group must have a consensus about the dispute and must agree on a representative for the mediation.

3. The parties must need each other. The parties must be dependent on each other to satisfy their needs. The resources out of which the dispute is to be settled (ie: the pie that is going to be carved up) must be within the control of the parties. Otherwise, a real solution is not possible.

4. There must be common ground. The parties must have some interests or issues in common. At least during the time period of the mediation process, they must speak loud, or be willing and able to learn each other's language. They must be willing to acknowledge the other party's worth and the possibility that there is merit to the other party's interests.

5. The relationship must matter. The parties must value their ongoing relationship more than their individual need to ***Resolve*** the current dispute by "beating" the other party at the expense of the relationship.

6. The dispute must be ripe for resolution. The parties must be willing to settle the dispute. If they have too much emotion "invested" in the dispute itself, they will not want to end the dispute, even if doing so might be in their best interests.

7. There must be pressure to settle. Independent of the parties' desires, there must be some external pressure to settle (ie: lack of time, threat of a third party's deciding the issue for them, diminishing benefits of a delay,

excessive costs, etc.).

8. The outcome must be uncertain. The outcome of those alternative methods of resolving the dispute must be uncertain. Otherwise, the party that is "guaranteed" the favorable result will have no reason to settle for less.

9. The parties should agree to mediate. The parties should be willing to accept the assistance of a third party mediator. There is a natural reluctance to accept the new processes. Some parties are afraid of the self-disclosure that comes in mediation. In some situations parties are afraid to face each other in the close and relatively unprotected setting of a mediation.

V. A GOOD AGREEMENT RESULTS WHEN:

- Each party has a good idea of its options before the agreement is finalized.
- Each side feels it has gained something through the negotiation.
- Each side is persuaded, not dominated.
- Each side is willing to give the agreement the time and opportunity to work.
- Each side is clear about how to proceed and abide by the agreement.

VI. CONFLICT MANAGER'S HEALTHY RESPONSE TO ANGER:

- Listen. Do not interrupt. Allow the anger to be expressed.
- Recognize and accept the expression of anger.
- Express empathy and understanding.
- Offer time out or postponement.
- If you make a mistake, accept the criticism and move on.

SAMPLE FORMS

Mediation Referral Request

On this _____ day of _____, 19___.

I, _____ hereby make a request that

_____ be referred to Mediation.

Problem Description:

_____

_____

_____

_____

_____

_____

Location of Conflict Situation: _____

Referral Number:_____ Signed:_____

Date:_____ Student ☐ Teacher ☐ Other ☐

Mediation Request

I, _____, hereby request a mediation

with _____.

Problem Description:

_____

_____

_____

_____

_____

_____

Location of Conflict Situation: _____

Date:_____ Signed:_____

MEDIATION AGREEMENT

DATE: _____

PARTICIPANTS NAMES: GRADE:

_____ _____
_____ _____
_____ _____
_____ _____

Referral number: _____

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PARTICIPANTS:

Signed: _____
Signed: _____
Signed: _____
Signed: _____

MEDIATION TEAM:

X _____
X _____
X _____

CONFLICT MANAGER CONTRACT

As a conflict manager, I understand that I am to help students resolve conflicts peacefully. As a conflict manager, I will do my best to ***Respect*** the participants in mediation, remain neutral, and keep the mediation confidential.

As a conflict manager, I agree to the following:

- To complete all training sessions.
- To maintain confidentiality in all mediations.
- To conduct the general duties of a conflict manager, including conducting mediations.
- To maintain model school behavior (this includes requesting mediation before taking other action if I become involved in a conflict).
- To maintain satisfactory grades in all classes and make up any class work missed during training or mediation sessions.
- To serve as a conflict manager until the end of the year.

Possible actions if these responsibilities are not met are as follows:

- First time: Warning
- Second time: Loss of conflict manager status for 1 month
- Third time: Suspension as a conflict manager

I accept these responsibilities for the school year.

Student signature:_____ Date: _____

Conflict Manager Training Graduate

This certifies that _____ *has completed the training requirements for service as a Conflict Manager at* _____ *school and is entitled to receive conflict mediation referrals through the school conflict mediation program during the 199__ school year.*

_____ _____

Principal *Mediation Program Coordinator*

****

Conflict Manager Training Graduate

This certifies that _____ *has completed the training requirements for service as a Conflict Manager at* _____ *school and is entitled to receive conflict mediation referrals through the school conflict mediation program during the 199__ school year.*

_____ _____

Principal *Mediation Program Coordinator*

ADDITIONAL INFORMATION

ABOUT

VIOLENCE & YOUTH

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MEDIATION CAN HELP YOUNG PEOPLE BOUNCE BACK

A RESILIENT YOUTH...

IS SOCIALLY COMPETENT:
S/HE CAN

- communicate
- respond to others
- show empathy
- laugh
- ***Respect***

SOLVES PROBLEMS:
S/HE CAN

- think abstractly
- ***Reflect***
- develop alternatives
- reason
- ***Resolve***

HAS A SENSE OF AUTONOMY:
S/HE HAS

- self esteem
- self discipline
- impulse control
- positive sense of independence
- belief in the future

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STATISTICS ON THE RELATIONSHIP BETWEEN VIOLENCE & DRUGS

Violence is increasing nationwide. Is there a relationship between violence and the use of drugs including alcohol? The following statistics from the Bureau of Justice Statistics, Survey of State Prison Inmates, 1991 link drug use and violent behavior.

The number of inmates serving time for violent crimes increased from 245,600 in 1986 to 328,000 in 1991. This was a 34% increase in the number of violent inmates.

The percentage of inmates in prison for a drug offense crime rose from 9% in 1986 to 21 % in 1991.

Over 3 times as many inmates were serving a prison sentence for a drug charge in 1991 (150,300) as in 1986 (38,5000).

61% of violent inmates said that they or their victims were drinking or using drugs at the time of their crime.

	% of inmates reporting that they or their victims were under the influence of drugs including alcohol at the time of the offense		
Violent offense	*Inmate*	*Victim*	*Inmate or Victim*
All	*50%*	*30%*	*61%*
Homicide	*52*	*46*	*70*
Sexual Assault	*42*	*19*	*47*
Robbery	*52*	*19*	*61*
Assault	*50*	*42*	*68*

Among inmates serving a sentence for burglary or robbery, about 6 in 10 inmates had used drugs in the month before the arrest for the current offense, and about 4 in 10 were under the influence at the time of the offense.

27% of inmates in prison for robbery and 30% of those serving time for burglary reported committing their offense to get money for drugs. About 25% of inmates in prison for drug trafficking reported money for drugs as a motive.

Compared to men in prison, women had used drugs and had committed crimes to buy drugs relatively more often.

12,600 women were serving a sentence for drug offenses in 1991, a 432% increase from about 2,400 female inmates serving time for drugs in 1986.

Female inmates were more likely than male inmates to have used drugs in the month before the offense (54% vs. 50%) and to have been under the influence at the time of the offense (36% vs. 31%).

Drinking inmates had consumed an average of nearly 9 ounces of ethanol (the

equivalent to about 3 6-packs of beer or 2 quarts of wine) before their offense.

About half the inmates under the influence at the time of the offense had been drinking 6 hours or more.

Over 25% of inmates reported their parents or guardians had abused drugs or alcohol.

Among all inmates, those who lived with both parents were least likely to report parental/guardian substance abuse (23%). 37% of inmates who lived with their fathers reported substance abuse in the home, compared to 27% of those who lived with their mothers and 34% of those who had other living arrangements.

32% of all inmates in 1991 had used crack or cocaine on a regular basis, compared to 22% in 1986.

About 80% of inmates in both 1986 and 1991 reported using a drug, and 62% reported regular use of a drug at some time in their lives.

About 14% of inmates committed their offense under the influence of cocaine or crack.

	% of inmates who in the month before the offense used:			
	Crack	*Powder Cocaine*	*Another Drug*	*No Drug*
Current Offense	100%	100%	100%	100%
Violent Offense	33%	39%	48%	51%
Homicide	5	10	14	14
Sexual Assault	4	5	7	13
Robbery	19	17	17	12
Assault	5	6	8	10
Property Offense	31%	25%	26%	23%
Burglary	16	14	14	10
Larceny	7	6	5	4
Drug Offense	32%	30%	20%	17%
Possession	12	11	7	6
Trafficking	20	18	12	11
Public Order Offense	4%	5%	5%	9%
Committed current offense for $ for drugs	55%	43%	20%	---

Ways to Reduce School Violence[10]

Society

- Reduce child and family poverty
- Reduce media concentration on violence
- Reduce discrimination
- Reduce violence in neighborhoods
- Reduce profits in illegal drug industry
- Control weapons

Families

- Reduce child abuse
- Stabilize families
- Reduce TV watching
- Store weapons securely

SCHOOLS

Student Support

- Provide counseling, psychological & health services
- Provide academic assistance
- Provide before & after school opportunities
- Provide early childhood intervention

School Effectiveness

- Increase student success in school
- Improve school climate
- Increase teacher, student parent & community involvement
- Reduce school group/size
- Establish & enforce clear, fair rules & consequences re: behavior

Targeted Interventions

Install programs such as:

- PEER MEDIATION
- crime prevention education
- handgun violence education
- life-skills training

Enforcement

- Use metal detectors
- Place safety officers in schools
- Pass/enforce tougher laws

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APPENDICES

EFFECTIVE PRESENTATION TIPS

IT IS EFFECTIVE TO:

- Talk to the classroom teacher before you visit the class. Find out the class size, grade level, class ability and topic.
- Translate legalese into English.
- Use a variety of methods and examples.
- Work with the teacher to avoid just lecturing. Identify lessons ahead of time.
- Start where students are, and relate your presentation to their world, for example, start with a story involving young people and the law currently in the news.
- At the beginning, briefly tell students about your work and explain the goals of your visit.
- Encourage questions.
- Ask the teacher to provide name tags. Involve as many students as possible.
- Be realistic about the legal system. You can show students how to improve the legal system.
- Let students see you as a real human being. Share your interests, concerns, and satisfactions.
- Be prepared for hard questions.
- Remember you are a role model for the students you are visiting and an ambassador for your profession.
- Maintain eye contact.
- Keep your presentation to the time indicated by the teacher.
- Let your personality come across.
- Be certain that both sides of controversial issues are brought out either by the students, yourself or the teacher.

IT IS NOT EFFECTIVE TO:

- Lecture at students.
- Have the teacher leave the room during your visit.
- Try to cover a broad range of topics in one class period.
- Talk down to students.
- Underestimate the ability or intelligence of students.
- Not admit when you do not know an answer.
- Tell a lot of war stories.
- Read a prepared speech and/or stay behind a desk or podium.
- Allow a few students to dominate the discussion.
- Feel you must defend everything about the operation of the legal system. An unrealistic, idealized portrait of the system can increase student cynicism.
- Give advice on individual legal problems.
- Allow yourself to get angry at heckling or passive unresponsiveness.
- Talk in a monotone.
- Assume the students or participants either have or lack knowledge about a given point. Check it out.

"The best answer to the question, 'What is the most effective method of teaching?' is that it depends on the goal, the student, the content, and the teacher. But the next best answer is, 'Students teaching other students.' There is a wealth of evidence that peer teaching is extremely effective for a wide range of goals, content, and students of different levels and personalities."

Wilbert McKeachie, et al. (1986)

Working With Special Students

An effective resource person will enhance the learning experience for students participating in a law related lesson. There are certain steps a resource person can take to ensure s/he is effective. Preparation is essential for success. To prepare to work with students the resource person must work with the classroom teacher to understand the objectives of her/his visit and to become aware of the students with whom s/he will be working.

While every school, student and teaching experience will be unique, we have attempted to identify some common characteristics shared by identifiable groups of students.

Who Are At-Risk Students?

"At-risk" is a loosely defined term used to describe an individual who may be in danger of exhibiting behavior considered inappropriate. It has been said, "You may not be able to define it, but you know it when you see it." Risk factors for youth problems have been identified for various areas including delinquency or antisocial behavior, drug (including alcohol) abuse, school drop out, mental health and teen pregnancy. These problems share common risk factors despite the fact that youth with one problem may be very different than youth with another problem. Generally at risk youth are exposed to one or more of the following:

- Early display of anti-social behavior and aggression.
- Drug use and criminal behavior by family members and/or friends.
- Poor family management practices. Stress at home.
- Family conflict. Low expectations from family. Single parent family.
- Development in a deprived social/economic environment.
- Academic failure. Disruptive in class. Retention in one or more grades.
- Psychological dysfunctions/personality disorders.
- Low commitment to school, learning and education.
- Negative peer influences. Lured to immediate gratification.
- Alienation from authority figures and/or weak bonding to pro-social norms.
- Development in disorganized or alienated neighborhood.
- All friends outside of school.
- Language minority family.

Tips For Working With At-Risk Students

- Focus on relevant problems that make sense to the students and that involve real world tasks.
- Involve students in real-life experiences and integrate the students experiences and culture in classroom activities.
- Highlight the process, not just the product. Use instructional strategies that engage the students in discussions and analysis of controversial issues.
- Promote active learning so that the student is not just a passive recipient in the educational process.
- Expose students to major concepts from which they can construct their own principles.
- Build in periods of physical activity, rather than having long periods during which the students are seated or inactive.
- Since at-risk students think concretely and have difficulty understanding apparent hypocrisy, save time and trouble by modeling what you are teaching.
- Demonstrate the relevance of the subject matter since students who have the most trouble in school often take the narrowest view of what is worth learning.
- Respond in a positive manner to students and allow students to work in supportive, cooperative groups because many at-risk students are quick to respond to negative feedback..
- Allow task oriented noise during class.
- Give students a sense of ownership in their group by allowing them to share in the decision making.
- If possible involve the family in the school program.

Tips For Working With Gifted Students

- It is important to discuss with the teacher of gifted and talented students both the subject to be covered during your visit and the make up of the class.
- There are several key points to remember when working with gifted students:
- Gifted students may have a tendency to monopolize or dominate the conversation. Make an effort to get all students involved.
- Gifted students may be bored by a routine presentation. Interactive, highly participatory lessons are more likely to stimulate them.
- Gifted students often disagree more vocally than other students.
- Gifted students may be very impatient with themselves and very critical of themselves and others.
- Gifted students tend to be extremely interested in vocabulary and participatory learning.
- Planning and organization are particularly crucial to an effective lesson with gifted students.

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